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# Jewish Political Theology: The Doctrine of *Da'at Torah* as a Case Study\*

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A number of political theologies have emerged within modern Judaism, primarily as a reaction to the rise of Zionism but also, and to a lesser degree, to that of socialism, pacifism, and other ideological movements. Among the characteristics they shared are a “father” — i.e., an individual who fleshed out their tenets in more or less systematic fashion — and an attempt to deal with the nature and governance of a future Jewish state. The majority of these theologies failed to achieve significant influence in the wider public arena. Notably, however, there is one modern Jewish political theology that evolved by means of a different process, one that was gradual and decidedly unsystematic. It also lacks a single founder or figurehead, even though, like its counterparts, it developed and sought to remain within a particular social faction where it has long exercised significant influence and continues to do so to this day. I am referring to the doctrine of *Da'at Torah* (literally “the Torah view,” “the opinion of the Torah,” “the knowledge of the Torah,” or “the Torah mind”),<sup>1</sup> which arose in the first half of the twentieth century in Haredi (ultra-Orthodox) circles.<sup>2</sup> It can be summarized in a single sentence: The great religious authorities

\* I am grateful to Prof. Hanina Ben-Menachem and Prof. Menachem Lorberbaum for their comments, and to Fathers Timothy Lowe, David Neuhaus, and Roberto Spataro for enlightening conversations.

<sup>1</sup> The first critical analyses of this concept were by Gershon Bacon, *The Politics of Tradition: Agudat Israel in Poland 1916–1939* (Jerusalem: Magnes, 1996) 48–69; Lawrence Kaplan, “*Da'at Torah*: A Modern Conception of Rabbinic Authority,” in *Rabbinic Authority and Personal Autonomy* (ed. Moshe Z. Sokol; Northvale, N.J.: Aronson, 1992) 1–60; Jacob Katz, “*Da'at Torah*: The Unqualified Authority Claimed by Halakhists,” *Jewish History* 11 (1997) 41–50; and Benjamin Brown, “The Doctrine of *Da'at Torah*: Three Stages,” in *The Way of the Spirit* (ed. Yehoyada Amir; Jerusalem: Magnes, 2005) 537–600 [Hebrew].

<sup>2</sup> As I will clarify later, Orthodox Judaism separated in the twentieth cent. into two political movements, which subsequently became two religious streams: the more traditional stream, known as “Haredi Judaism,” and the more moderate stream, known as “Religious Zionism” or “Modern

hold the power to issue rulings not only in their specific areas of expertise but in all areas of life, including the political realm.

Unlike other Jewish political theologies, *Da'at Torah* was not designed for use in a sovereign state. Rather, its target audiences were much smaller in scale: a political party—for example, Agudat Yisrael—or specific religious communities subject to the governance of larger states. According to some scholars, the doctrine includes the implicit (or explicit) belief that the great Torah scholars cannot err, frequently compared to the Catholic Church's concept of papal infallibility.<sup>3</sup> Adopted as one of the central values of Haredi society from its very beginnings, *Da'at Torah* continues to wield significant influence among this society's political and social organizations today.

At first blush, *Da'at Torah* seems to be a simple—some would even say “simplistic”—theocratic doctrine. This impression is strengthened by the fact that it establishes the absolute authority of Torah authorities *without* indicating how they are to be chosen, and how their powers implemented. As with other Haredi doctrines from the same period, its formulation is fraught with language that is incidental, sloppy, and at times garbled. It rarely, if ever, makes reference to other, alternative doctrines, whether those that oppose it or those that could, potentially, enrich it. It is therefore appropriate to ask: Is it possible to view *Da'at Torah* as a theological creation? And if so, is it possible to view it as a *political* theology? Finally, has the doctrine of *Da'at Torah* contributed to twentieth-century theological-political discourse, and can it contribute to our understanding of political theologies today?

In the following article, I will attempt to answer all of these questions in the affirmative. Whereas a few scholarly studies have described *Da'at Torah* as a social and political pattern of behavior that eventually achieved a certain theological expression,<sup>4</sup> in what follows, I argue the converse perspective: that *Da'at Torah* is a theological idea that achieved expression through practical implementation. First, I will demonstrate that the question of the categorization of *Da'at Torah* as “theology,” and consequently as “political theology,” depends on how the parameters of these concepts are defined. After examining the range of possible definitions, I will argue that *Da'at Torah* constitutes both a theology in the broad sense of the term as well as a political theology, even in the narrow sense of “political.” Furthermore, I will argue that *Da'at Torah* indeed made the following important contributions to twentieth-century political-theological discourse: 1)

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Orthodoxy” (the former term is more prevalent in Israel and the latter in the United States). In scholarly research, the term “ultra-Orthodox” has at times been used to refer to Haredi Judaism, but such use has drawn criticism, both on account of its judgmental connotations and because it is imprecise (at times it refers to Haredi Judaism in general and at times to its more radical branches). I have preferred in this essay to use the term “Haredi” in its various grammatical forms.

<sup>3</sup> Bacon, *The Politics of Tradition*, 56; Jacob Katz, *Halakhah in Straits* (Jerusalem: Magnes, 1992) 18 [Hebrew]. He also alludes to this comparison in idem, “Da'at Torah,” 41.

<sup>4</sup> This is, to a large degree, the trend that characterizes research on Haredi Judaism in general: a tendency to emphasize the social perspective at the expense of the intellectual one.



*Da'at Torah* represents a methodological innovation in the definition of theology, challenging the accepted boundaries of theological creativity and potentially expanding our understanding of the concept; 2) as a political theology *not* designed for use in a state, *Da'at Torah* represents an innovation in the definition of political theology; 3) given its fundamentally antidemocratic nature, it provides an interesting counterpoint to mainstream Western political-theological discourse in the twentieth century (although, it should be noted, it does require a pseudo-democratic balance in its implementation); 4) it came to include a subtle element of infallibility, which I will refer to as “political infallibility”; and 5) as the only *Jewish* political theology in the modern era to achieve practical application—i.e., to withstand the “test of outcomes”—it can prove of significant interest to the social sciences. Lastly, I will argue that the pragmatic, non-systematic character of *Da'at Torah* affected its content: because the doctrine was not formulated in clear-cut theological terms, it could display a greater degree of political and theological dynamism than many other political theologies, which fossilized on history’s bookshelf.

### ■ The Doctrine of *Da'at Torah*: Its Origins and Development

*Da'at Torah* is a Haredi innovation that emerged at the beginning of the twentieth century, around the time of the schism that erupted within Orthodox Judaism over the question of its relationship to Zionism. Already by the end of the nineteenth century, when the Jewish-national movement first entered the stage of Jewish history, the Orthodox world divided essentially into two camps: those who supported the movement and, consequently, established the Religious-Zionist Mizrahi Movement in 1902 and those who would go on to found the anti-Zionist political party Agudat Yisrael ten years later.<sup>5</sup> After the founding of the State of Israel in 1948, the two political streams gradually evolved into religious-social movements: religious Zionism on one hand and the non-Zionist Haredi community on the other. Today, they are mainly recognized for their different approaches to modernity, as well as for their distinct approach to rabbinic leadership.<sup>6</sup> In the first decades of their existence, however, the division between these groups ran primarily along political lines. Although neither movement presented a feasible plan for a modern Jewish state, Haredi Judaism, and in particular the Agudat Yisrael party, developed the doctrine of *Da'at Torah*, which effectively established the *modus operandi* for Haredi society within a larger political entity, whether Jewish or Gentile.

<sup>5</sup> Samuel C. Heilman, “The Many Faces of Orthodoxy—Part II,” *Modern Judaism* 2 (1982) 175–82. On the establishment of the Mizrahi Movement, see Yosef Salmon, *Religion and Zionism: First Encounters* (Jerusalem: The Hebrew University of Jerusalem, 2002) 235–367; Ehud Luz, *Parallels Meet* (Philadelphia: Jewish Publication Society, 1988) 227–56. There were also more radical elements in the Orthodox world that viewed Agudat Yisrael as a compromise and did not join it.

<sup>6</sup> Benjamin Brown, “Orthodox Judaism,” in *The Blackwell Companion to Judaism* (ed. Jacob Neusner and Alan J. Avery-Peck; Oxford: Blackwell, 2003) 311–33, at 319–22.



*Da'at Torah* originated in the *Litvish* (Lithuanian) sector of Haredi Judaism, which cherished Torah study and intellectual achievement to the exclusion of almost all else. In this context, *Da'at Torah* may be said merely to have accentuated the authority of outstanding Torah scholars, whose reputations were based on their talmudic acumen and legal rulings. By contrast, the other large sector of Haredi Judaism, the Hasidim, foregrounded ethical values and spirituality; since the eighteenth century it been led by *tzaddikim*, or “rebbe,” who offered guidance not only in areas of religion, but also on questions relating to individual and communal needs. The rebbes’ authority derived both from their lineage and their virtue (expressed in the mystical-charismatic concept of being “imbued with the holy spirit”), thus granting them even broader powers than were later to be assigned by the doctrine of *Da'at Torah*. Indeed, since the Hasidic rebbes did not need *Da'at Torah* to shore up their authority, they contributed very little to its development. Understandably, then, the stages of the doctrine’s development described below overlap to a great degree with the leadership of different personalities in the *Litvish* sector, who infused it with content related to their worldviews, their personality traits, and their leadership styles.<sup>7</sup>

One of *Da'at Torah*’s early advocates was the Lithuanian Rabbi Israel Meir Hakohen (Kagan), the “Hafetz Hayim” (ca. 1839–1933). Known as a legal authority rather than a theologian, he was nonetheless revered for his remarkable pioussness, humbleness, and simplicity. The Hafetz Hayim argued for the Torah’s ability to provide an answer to any and all questions. It should be noted that his certitude derived from a faith in the truth inherent in the Torah itself, and not necessarily in the Torah scholars. The theological source of this approach is, in fact, a much older doctrine, that of “everything is in it” (*kolla’ bah*)—i.e., in the Torah.<sup>8</sup> According to this principle, the Torah in both its written and oral forms contains the entire truth about reality. While the roots of this doctrine can be traced to midrashic sources, Maimonides, the preeminent Jewish philosopher of the Middle Ages, gave it a decidedly rationalistic orientation, maintaining that one can find in the Torah all the basic scientific and metaphysical principles of the world. The Kabbalists, by contrast, lent this doctrine a mystical orientation, even radicalizing it to a degree in the eighteenth century, when they argued that the knowledge embedded in the Torah relates not just to abstract principles (i.e., the general foundations of the world), but also to details concerning individual persons or objects. This kind of knowledge could be mined by either a mystical-experiential approach (employed, for example, by the founder of Hasidism, Israel Baal Shem Tov) or an intellectual one, which seeks to decode textual “clues” (as employed by the Gaon of Vilna, the leader of the opposition to Hasidism).

<sup>7</sup> The following summary is based primarily on my article “The Doctrine of Da’at Torah.”

<sup>8</sup> Based on the language of the Mishnah in *Pirkei Avot*: “Turn it over and turn it over, because everything is in it” (*m. Avot* 5:22).



As the status of Kabbalah in Jewish thought declined rapidly during the course of the nineteenth century, its pretensions to access the hidden knowledge about each individual were also largely dismissed. Eventually, the notion of “everything is in it” became a purely dogmatic principle, absent practical expression. Furthermore, the doctrine had by then come under the influence of “simple faith,” a concept that could not be farther removed from metaphysical understanding. Now the emphasis was no longer placed on the Torah’s revelation of the underlying principles of the world order, nor on its knowledge regarding the lives of either individuals or particular events. Rather, Haredi Jews sought out the Torah for its ability to provide *practical* advice on how to live, relevant both to individuals and the community as a whole. As the Hafetz Hayim famously stated, “He whose knowledge is the knowledge of the Torah (*Da‘at Torah*) can solve all of the problems in the world, for the individual and for the collective.”<sup>9</sup>

At this point in time, it is important to note, guidance gleaned from the Torah was perceived as worth heeding, but not necessarily authoritative or obligatory. Furthermore, the early twentieth-century version of *Da‘at Torah*—the Hebrew meaning of which encompasses the definitions “knowledge of the Torah,” the “worldview of the Torah,” and the “Torah-mind”—referred specifically to the ability of Torah scholars to draw advice specifically from written sources. (This approach, it should be noted, was the seed of the doctrine of *Da‘at Torah* in its embryonic stage.) Accordingly, the innovative potential of *Da‘at Torah* was deliberately limited, in contrast to the far-reaching pretentiousness of the “everything is in it” doctrine that prevailed in earlier periods.

In the second stage of *Da‘at Torah*’s development, which began with the establishment of Agudat Yisrael at the beginning of the twentieth century and concluded with the Holocaust, the doctrine underwent a clear transformation in a number of areas. For example, the new party established a supreme body of religious leaders, “The Council of Torah Sages,” designed to provide guidance to its functionaries. According to party ideology, the council was the living embodiment of *Da‘at Torah* and applied it to fundamental questions on its agenda. As such, the “pure” doctrine underwent a process of institutionalization: the new council represented the various powers in the Haredi world (including both prominent rabbis and Hasidic masters), and aspired—in theory, if not always in practice—to arrive at decisions by consensus. At the same time, however, it issued rulings without explanations—a practice that is non-existent in the halakhic tradition.<sup>10</sup>

*Da‘at Torah* undoubtedly granted Agudat Yisrael a religious-moral edge over its competitors—especially the Mizrahi movement, which did not enjoy the

<sup>9</sup> Shmuel Greineman, *The Hafetz Hayim on the Torah* (in *Ma‘asai Lamelekh*; Bnei Brak: self-published, 1970) 30 [Hebrew]. The phrase can also be translated as “He whose mind is a Torah-mind,” or “He whose view is the view of the Torah.”

<sup>10</sup> In the opinion of Katz and others, this self-appointed exemption from providing explanations implied that the council perceived itself as infallible. See Katz, *Halakhah in Straits*, 19–20.

support of the most prominent rabbis. At the same time, it offered an alternative to the anticlerical spirit then prevalent among many secular Zionists. This spirit is reflected, for example, in the following passage by Theodor Herzl, the father of political Zionism, from his book *The Jewish State* (1896):

We shall therefore prevent any theocratic tendencies from coming to the fore on the part of our priesthood. We shall keep our priests within the confines of their temples in the same way as we shall keep our professional army within the confines of their barracks. Army and priesthood shall receive honors high as their valuable functions deserve. But they must not interfere in the administration of the State which confers distinction upon them, else they will conjure up difficulties without and within.<sup>11</sup>

Against this claim, the Non-Zionist Orthodox leadership sought to bolster the public status of the rabbis by calling for their involvement in political matters. To be sure, this approach constituted a clear departure from the previous understanding of the role of the rabbi in Jewish life. In premodern, traditional Jewish society, “secular” matters were largely handled by the *kahal* (the council of the community), which was primarily a nonreligious entity.<sup>12</sup> Nevertheless, for the sake of defending Orthodoxy, modern-day Orthodox Jews were prepared to deviate from their usual conservatism and embrace certain fundamental changes. One of the leaders of Agudat Yisrael, Rabbi Meir Shapiro of Lublin, recognized this essential shift in rabbinic responsibility in comments he made in 1926:

To you, rabbis of Israel, . . . it is of course difficult to suddenly become rulers who occupy an exalted position above the people. . . . But permit me, gentlemen, to tell you: . . . At a time that the Torah is in danger, at a time when fire is consuming thousands of Jewish souls, there is no room to be glorified with excessive humility and to hide in the corner; . . . It is demanded of each one of us: “And thou shalt stand upon a rock” (Exod 33:21).<sup>13</sup>

Other Torah sages took the idea of *Da‘at Torah* in similar directions. Rabbi Elhanan Wasserman (1874–1941), a disciple of the Hafetz Hayim, returned to the idea of “everything is in it,” this time with the caveat that only the truly great Torah sages, who had dedicated their lives to Torah study and completely internalized its spirit, were capable of finding in it the correct answers to all questions. Rabbi Wasserman himself sought answers through an explicit—even somewhat fundamentalist—interpretation of the holy texts. Such rabbinic rulings were, once

<sup>11</sup> Theodor Herzl, *The Jewish State* (New York: American Zionist Emergency Council, 1946) 146.

<sup>12</sup> Jacob Katz, *Tradition and Crisis: Jewish Society at the End of the Middle Ages* (New York: Free Press of Glencoe, 1961) 169. Nevertheless, the Jewish community did not adopt the separation of powers in the modern sense. It is clear, therefore, that in the past the rabbis were also involved in public issues, apparently to a greater degree than is acknowledged by some of the critics of *Da‘at Torah* (see *ibid.*, 126).

<sup>13</sup> Rabbi Meir Shapiro of Lublin *Festschrift* (ed. Shmuel Nadler; Lodz: Mesorah, 1930) 326 [Hebrew].



again, received not only as good advice but as obligatory, halakhic-type rulings, based on the law, “Thou shalt not decline [from the sentence which they shall show thee]” (Deut 17:11).<sup>14</sup> At the general assembly of Agudat Yisrael, he stated:

The Torah is our spring of life. Without the Torah we have no knowledge. To all the events of life we can find an explanation in the Torah. . . .

Each one of us has a Torah view (*Da'at Torah*), but in varying percentages. One person holds 50 percent, another 75, and a third 15, and the remaining percentages held by each of them are not the view of the Torah, but other views: the view of one's livelihood, the view of one's commerce, the view of one's wife and children, etc. And, thus, his Torah view becomes an ineffective minority, and . . . he is untrustworthy.

A Torah view held by 100 percent can be found only in the great Torah scholars, they who disposed of all worldly concerns and devoted themselves solely to the knowledge of the Torah (*Da'at ha-Torah*), “according to all that they inform thee.”<sup>15</sup>

In contrast to Rabbi Wasserman were more moderate Haredi personalities, such as Rabbi Hayim Ozer Grodzinski (1863–1940), who served as the president of the Council of Torah Sages. Rabbi Grodzinski held that not every answer can be found in the Torah; indeed, the opinions of the sages in certain matters must be based on “common sense and experience.”<sup>16</sup> For example, when a German Orthodox Jew asked him whether it would be halakhically right or wrong to secede from the larger Jewish community and establish a separate, Orthodox one, he replied:

I must tell you that in spite of my desire to satisfy you and answer you properly, this time the question you posed is too difficult. . . . Indeed, the key to answering [it] is, in my opinion, [to grasp that it is] different from all those questions about ritual matters or even . . . [those] pertaining to the status of *agunot*.<sup>17</sup> Regarding such questions, which are squarely rooted in the Talmud and the halakhic codes, the decisor has to work at understanding the earlier and the later authorities, to apply their rules for making a decision, and to find a solution to the complex problem at hand. The solution to the issue you raise,

<sup>14</sup> This law is perceived in rabbinic literature as the source of the obligation to adhere to the rulings of the halakhic scholars (see *b. Šabb.* 23a; Maimonides, “Introduction to the *Mishneh Torah*”), but in traditional commentary, this obligation applied only in the realm of halakhah.

<sup>15</sup> “The Great Assembly of Agudat Yisrael in Marienbad,” *Hapardes* 1 (5697/1937) 9 [Hebrew]. The concluding verse is from Deut 17:10, and refers directly to the commandment, “Thou shalt not decline.” See also Elchonon B. Wasserman, *Epoch of the Messiah* (Brooklyn, N.Y.: Ohr Elchonon, ca. 1977) 25–26.

<sup>16</sup> Rabbi Hayim Ozer Grodzinski, “Letter concerning the Communities in Germany,” in *Rabbi Yehiel Yaakov Weinberg Memorial Volume* (ed. Azriel Hildesheimer and Kalman Kahane; Jerusalem: Feldheim Publishing, 1970) 9–12.

<sup>17</sup> Literally, “chained women,” women whose husbands have absconded, are missing and presumed dead, or who refuse to grant them a divorce according to Jewish law.

however, is different. It is founded on a comprehensive awareness and clear-sightedness [that enable one] to know the right way to patch the breached fence, and fill in the gap, in order to reinforce our religion. . . . This question is not solved by sources from the Talmud and the halakhic authorities, but by good reasoning and a clear-sighted worldview.

And with regard to the issue [of the dispensation to associate oneself with sinners], which pertains to fundamental issues of the Torah and its laws, and is not resolved by talmudic sources but [rather] by good common sense and experience—only the halakhic authorities of the place in question can address it with due profundity. [It is their duty] to [determine] the correct extent of engagement and disengagement [with the non-Orthodox].

It is important to note that Rabbi Grodzinski did not believe that recognizing that certain rulings lack a textual basis in any way reduced the authority of *Da'at Torah*. Instead, he seems to have understood the doctrine in a less rigid manner than did Rabbi Wasserman and others, who represented Agudat Yisrael's dogmatic wing.

Relying on their moral-religious authority, the Hasidic masters and prominent rabbis of Eastern Europe adjudicated on the difficult questions with which they were confronted on the eve of the Holocaust. A majority maintained the tradition of opposition to emigration from Europe, both to the United States and Palestine. Whether a different position would have significantly changed the scope of the Nazi massacre remains open to debate; nonetheless, there were many who did not hesitate to level criticism at that leadership when the sheer proportion of that massacre became clear. Indeed, in the period following the *Hurban* ("Destruction," as the Holocaust is known in Haredi literature), Haredi Judaism was mired in a profound crisis. Its leaders, members, and centers of learning were almost completely decimated; in addition, it was forced to grapple with a crisis of faith, in God himself and in the sages, both of whom had arguably failed the test of outcomes.<sup>18</sup> Many claimed that the Holocaust was unequivocal proof of the Zionist prognosis for Europe and blamed Haredi leaders for their failure to see the writing on the wall—thus attributing to them responsibility for the fate of their followers.<sup>19</sup> Such claims—some of which bore grains of truth, while others were more akin to

<sup>18</sup> This crisis and the way in which it was handled have been addressed extensively elsewhere. See, for instance, Eliezer Schweid, *Between Destruction and Salvation* (Tel Aviv: Sifriyat Poalim, 1994) [Hebrew].

<sup>19</sup> Members of the religious-Zionist Mizrahi Party at times lent their voices to these harsh accusations. See Menachem Friedman, "This is the History of the Status Quo: Religion and State in Israel," in *The Transition from Yishuv to State 1947–1949: Continuation and Exchange* (ed. Varda Pilovsky; Haifa: Haifa University Press, 1989) 53 and especially 75 n. 12 [Hebrew]; idem, "The Manner in which the Religious Groups Dealt with the Establishment of the State as an Expression of 'Return to History'," in *Zionism and the Return to History* (ed. Shmuel Noah Eisenstadt and Moshe Lisak; Jerusalem: Yad Ben Zvi, 1999) 458 [Hebrew]. On the way in which the Haredim dealt with the Holocaust in general, see idem, "The Haredim and the Holocaust," *The Jerusalem Quarterly* 53 (1990) 86–105; Kimmy Caplan, "The Haredi Society in Israel and its Relationship to the Holocaust—A New Reading," *Alpayim* 17 (1999) 176–207 [Hebrew].



demagoguery—often fell upon receptive ears, and likely as not more than a few Haredim were taken in by them to some degree. The need both to acknowledge and rectify the mistakes of the sages was urgently felt and became even more so several years later, when Zionism succeeded in establishing the State of Israel.

The third stage in the development of *Da'at Torah* occurred after both the Holocaust and the establishment of the State of Israel. In response to attacks on the doctrine both during the Holocaust and immediately thereafter, certain Haredi ideologues became even more radical. This trend led in two directions: First, the quasi-halakhic element of *Da'at Torah*, which had already emerged in an earlier stage, became more entrenched. Now, Haredi leaders taught that the obligation to obey *Da'at Torah*, as with that of any halakhic precept, should not be predicated on the assumption of a positive outcome; moreover, the soundness of a *Da'at Torah* ruling cannot be judged by its results. Second, the quasi-mystical element of the doctrine was bolstered by claims that the decisions of the sages are inspired by “the holy spirit,” or a “Divine inspiration.”

The first direction was represented primarily by the two most prominent leaders of Haredi Judaism after the Holocaust: the Hazon Ish and the Brisker Rov.<sup>20</sup> A saying attributed to the Hazon Ish may provide an example:

Someone once commented to him that in view of the Hazon Ish's own immigration to Palestine it is likely that the great Torah authorities of the previous generation, who had opposed Jewish immigration to that land, were proven wrong. This comment highly excited the Hazon Ish, and he exclaimed: “Heresy has been shed into your words! When the great authorities say not to immigrate—this is sheer law, just as much as their ruling to immigrate is a sheer law.”<sup>21</sup>

In other words, outcome is irrelevant, since obedience to God's law must be absolute, an end in itself. “Success is not law,” he is quoted as saying, in a typically concise manner.<sup>22</sup> Similarly, the Brisker Rov is quoted as saying:

Where the opinion of Torah (*Da'at Torah*) is that a certain action is forbidden, the outcomes that may emerge from this action make no difference at all. Even if we know by a clear prophecy what will happen in the end, the prohibition remains equally valid.<sup>23</sup>

<sup>20</sup> “Hazon Ish” is the nickname for Rabbi Avraham Yesha'ayahu Karelitz (1878–1953), the most prominent leader of Haredi Judaism in the 1940s and 1950s. The “Rav of Brisk” is the pseudonym for Rabbi Yitzhak Ze'ev (Velvel) Soloveitchik (1886–1959), who became more prominent after the death of the Hazon Ish, and distanced himself from Agudat Yisrael.

<sup>21</sup> Quoted in “A *Da'at Torah* Collection of the Great Authorities of the Recent Generation,” in Rabbi Elhanan Wasserman, *Footsteps of the Messiah* (Bnei Brak: Netzah, 1989) 23 [Hebrew]. See also Rabbi Tzvi Yabrov, *Ma'ase Ish* (7 vols.; Bnei Brak: self-published, 2001) 4:16 [Hebrew]; *ibid.*, 176.

<sup>22</sup> Rabbi Joseph Abraham Wolf, *The Age and Its Challenges: The Land of Israel* (Bnei Brak: The Y. A. Wolf Foundation for Book Publications, 1982) 298 [Hebrew].

<sup>23</sup> *Passover Haggadah “From The House of Levi” Brisk—Addenda* (ed. Moshe Shimon Gerlitz; Jerusalem: Orayta, 1989) 83 [Hebrew].

This standpoint led the Brisker Rov to object vehemently to the establishment of the State of Israel in 1948. In his opinion, there was no halakhic justification for the risk of human life in defense of such a state and, therefore, it was forbidden to establish it, even if it may lead to a good outcome, and even if its establishment were the realization of biblical prophecies.<sup>24</sup>

The second, quasi-mystical direction was particularly dominant in the writings of the renowned Rabbi Eliyahu E. Dessler (1892–1953). Formulations of this type came closest to the concept of infallibility, to which we will return later on. These two directions—the “halakhic” and the quasi-mystical—are not obviously compatible, for halakhic rulings are largely perceived in rabbinic tradition as detached from supernatural sources. In addition, halakhah is considered a “culture of controversy,” in which each scholar is permitted to point out what he considers to be errors in the arguments of his colleagues. Yet Haredi thought was not generally concerned with these inherent tensions. In any case, both of these theoretical directions were in fact compatible with still another trend that developed at the same time: the deinstitutionalization of *Da’at Torah*.

While the Council of Torah Sages continued to function and to guide the course of Agudat Yisrael, the two figures who personified *Da’at Torah* in this period, the Hazon Ish and the Brisker Rov, were not members of the Council and never participated in its meetings. Indeed, even after the establishment of the State of Israel, when Agudat Yisrael was integrated into the state’s elected democratic institutions, we do not find any real aspiration to extend the jurisdiction of the council beyond its sphere of influence within Haredi society. Nor, for that matter, did the council seek to serve as a model for a Jewish theocracy. Rather, the doctrine became an extremely powerful force within the Haredi community—so much so, in fact, that those with hesitations were summarily discounted, or even thrown out. At a certain point, the doctrine virtually took on the status of an article of faith.

The fourth and fifth stages in the evolution of *Da’at Torah* involved almost no noteworthy theological developments. They were, however, characterized by changes in the doctrine’s implementation. In the fourth stage, which began in the 1970s, the attempt to monopolize *Da’at Torah* began in earnest, in association with the leadership of Rabbi Elazar Menachem Shach (ca. 1898?–2001). The dominant leader of the *Litvish* Haredi sector at the time, Shach launched a series of attacks against different power bases in Haredi society, thus aggravating schisms within the Council of Torah Sages and ultimately neutralizing the body altogether. The fifth stage, which began in the mid-1990s, is associated with the leadership of Rabbi Yosef Shalom Elyashiv (1910–2012), also a leader of the *Litvish* Haredi community. This marks, to a large degree, the post-ideological or technocratic phase of *Da’at Torah*, in which its direction is not only determined by the Great Torah Sages but is also influenced in significant part by a group of aides and beadles that surrounds them. Rulings are primarily pragmatic, and allow for a degree of relativity

<sup>24</sup> Ibid.

between the different groups and individuals that constitute Haredi society.<sup>25</sup> This is, it should be noted, in keeping with the doctrine's original mandate: although *Da'at Torah* was designed to anchor the involvement of the Great Torah Sages in "all of the problems in the world," including matters both personal and public, its strongest impact, at least from the second stage onward, was undeniably in the political realm, where it authorized the religious leadership of Haredi Judaism to function as its political leadership, as well.

Today we seem to be at the beginning of a new, sixth stage. Due to the split within the Litvish-Haredi leadership, there are two adversarial leaders for the sector and, consequently, every individual selects his own leader in what appears to be a very small and unstated move toward democratization in the practice (even if not in the concept) of *Da'at Torah*: the individual no longer molds his views according to the views of the spiritual leader, but rather selects his spiritual leader according to his existing views. But this process is too premature to be discussed here.

The decisions made by Torah masters are manifold. Torah authorities and Hasidic rebbes nominate the Knesset members of Agudat Yisrael, and the Shas Party, established in 1983, holds the same policy. The religious authorities decide which of the resulting Knesset members will serve as a vice-minister or as head of a parliamentary committee, and in the case of Shas, even as a minister at all. Moreover, all public nominations must receive the approval of the Torah (or Hasidic) authority of the specific community at stake. The same is true for Haredi delegates in city councils, especially in larger locales and exclusively Haredi ones. Finally, Torah and Hasidic masters decide whether or not the Haredi parties should join this or that government coalition, and under what conditions.

A few examples will serve to illustrate these authorities' far-reaching political influence. In 1977, they made the historic decision that Agudat Yisrael would join the government coalition formed by Menachem Begin. In 1984, Rabbi Shach called on his followers to vote for the new Shas party. In 1985 he encouraged the establishment of a new Haredi daily, *Yated Ne'eman*, and in 1988 he founded the political party Degel Hatorah, which seceded from Agudat Yisrael. In 1990, Rabbi Shach ordered the Shas Knesset members to vote against the attempt to topple the Likkud government (but they abstained). Two years later, in 1992, Agudat Yisrael and Degel Hatorah reunited to form a new bloc called "Yehadut Hatorah," after the agreement had been approved by the spiritual leaders of both parties. Immediately following the elections of that year, Rabbi Shach ordered the Shas party not to join the new government coalition formed by Yitzhak Rabin, although the party's other leader, Rabbi Ovadiah Yosef (1920–2013), ordered the opposite (the party followed Rabbi Yosef's decree). In 1996 Rabbi Shach called on his followers to support Binyamin Netanyahu's candidacy for prime minister, and in 1999 the Torah authorities ordered the Haredi parties to join the new government coalition

<sup>25</sup> I recently analyzed the development of these two stages in *Towards a Democracy in Haredi Leadership?* (Jerusalem: The Israel Democracy Institute, 2011) [Hebrew].



formed by Ehud Barak. Rabbi Elyashiv, in 2001, harshly criticized the “Kinneret Covenant” for its description of religion-and-state affairs in Israel—a document that had been signed by a Haredi participant—and objected to the notion of negotiations on these matters with nonobservant Jews. In 2003, he approved, for the first time, the candidacy of a Haredi Jew for mayor of Jerusalem, who subsequently went on to win the elections, and he interfered in the mayoral rotation process in the municipality of Bnei Brak. In 2004, Rabbi Elyashiv ordered the Haredi delegates to abstain from voting on prime minister Ariel Sharon’s “Disengagement Plan,” thus enabling the Israeli unilateral withdrawal from Gaza Strip. Again, in 2007, Rabbi Elyashiv interfered in the municipal elections of the Haredi town of Beitar Illit. This sort of involvement continues through the present day.

*Da‘at Torah* underwent a number of developments in its lifespan, all of which served, ultimately, to render it both flexible and invertebrate. This dynamism flows to some degree from the fact that *Da‘at Torah* primarily addresses concrete, pragmatic needs, yet it can also be attributed to the fact of its never having been formulated as a systematic theological approach. Either way, these factors combined to endow the doctrine, however unintentionally, with a vibrant quality not enjoyed by many other political theologies. Its success raises the question: can such a doctrine, which was developed and formulated haphazardly, and lacks both a systematic formulation and final consolidation, truly be considered a theology? Furthermore, given that *Da‘at Torah* never presumed to deal with the challenges of statehood, but only with those issues facing a particular political party or community, can it truly be considered a *political* theology? To answer these questions, we will now turn to a more general discussion of the concepts involved.

## ■ Methodological Analysis: What Is Political Theology, and to What Extent Is It Recognizable in *Da‘at Torah*?

The phenomenon of political theology has received a good deal of scholarly attention in recent decades. The term itself is at least as old as Marcus Terentius Varro (116–27 B.C.E.) and was also used by Augustine,<sup>26</sup> but it fell out of favor during the high and later Middle Ages and through the early modern period. In the twentieth century, however, a number of new political theologies emerged, both on the left—for example, the Social Gospel and Theology of Liberation movements—and on the right—for example, the *Velayat Faqih* (Guardianship of the Islamic Jurist) espoused by Iran’s Ayatollah Khomeini. It is plausible that the term “political theology” was revived in response to a need for a semantic parallel to the phenomenon of secular political ideologies, which flourished in the nineteenth and twentieth centuries.

One of the first modern thinkers to renew interest in political theology was Carl Schmitt. He is also the one who likely deserves credit for restoring the term to

<sup>26</sup> Augustine, *City of God* 4.5.



common usage.<sup>27</sup> In Schmitt's view, however, the term "political theology" took on a distinct cast: he used it in reference to strictly secular phenomena, in order to demonstrate that certain modern legal concepts, such as sovereignty, were created by the secularization of ideas that were originally theological in nature.<sup>28</sup> By contrast, the primary usage of the term in recent decades has been in reference to religious phenomena—i.e., religious thought as it relates to political issues. We may conclude, then, that there are two different definitions of "political theology,"<sup>29</sup> only one of which—the original one, and not that of Schmitt—is relevant to our discussion.

Is it the case, however, that any religious thought that relates to political questions qualifies as "political theology"? Broadly speaking, the answer to this question would be "yes"; from a methodological standpoint, however, it would be worthwhile to distinguish between different types of theology and different meanings of the term "political."

William Cavanaugh and Peter Scott, in their pioneering attempt to define the concept of political theology, described it as follows:

Theology is broadly understood as discourse about God, and human persons as they relate to God. The political is broadly understood as the use of structural power to organize a society or community of people. Under this spacious rubric, politics may be understood for the purpose of political theology in terms of the self-governance of communities and individuals; or in terms of Max Weber's more circumscribed definition of politics, as seeking state power. Political theology is, then, the analysis and criticism of political arrangements . . . from the perspective of differing interpretations of God's ways with the world.<sup>30</sup>

We find a similar characterization of political theology in an illuminating article by Abraham Melamed:

Political theology, a branch of theology, deals with the political aspects and implications of revelation as expressed in the holy scriptures of each of the

<sup>27</sup> This is true if we disregard Spinoza's use of the title "Tractatus Theologico-Politicus," which did not indicate the existence of a discipline called "political theology," but rather that the book deals with the two disciplines mentioned: theology and politics.

<sup>28</sup> Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (trans. George Schwab; Cambridge, Mass.: MIT, 1985) esp. 5–52. Schmitt's concept of political theology is used more often in academic scholarship and less in religious literature. See, for instance, Uriel Tal, *Religion, Politics, and Theology in the Third Reich* (London: Routledge, 2004) 16–170; Christoph Schmidt, *Die Theopolitische Stunde* (Paderborn: Wilhelm Fink, 2009); idem, "In Answer to the Question: What Is Political Theology?," in *God Will Not Stand Still* (ed. Christoph Schmidt; Jerusalem: Van Leer Institute, 2009) 18–37 [Hebrew]. In Menachem Lorberbaum's opinion, these concepts remained laden with theological baggage ("Making Space for *Leviathan*: On Hobbes's Political Theory," *Hebraic Political Studies* 2 [2007] 78–100, esp. 96–100).

<sup>29</sup> See also Izhak Englard, "Preface," in *God, State, Nature, Human: Hans Kelsen on Political Theology and Natural Law* (trans. and ed. Izhak Englard; Jerusalem: Israel Democracy Institute, 2011) 11–44, at 16–17 [Hebrew].

<sup>30</sup> William T. Cavanaugh and Peter Scott, "Introduction," in *The Blackwell Companion to Political Theology* (ed. William T. Cavanaugh and Peter Scott; Walden, Mass.: Blackwell, 2007) 2–4, at 2.

monotheistic religions. Whereas theology in general is concerned with everything accompanying religious faith based on divine revelation, political theology deals with the significance of governing relations between God and humankind in a particular ethnic or religious group stemming from this revelation.<sup>31</sup>

The first of these definitions aroused some criticism,<sup>32</sup> but, significantly, no criticisms were directed at their basic foundation. These definitions may, therefore, serve as a useful starting point. Yet, I would argue that these writers define the concept of political theology too broadly. In what follows, I will attempt a clarification of political theology's two components.

The concept of theology has undergone a number of metamorphoses, generally in the direction of a broadening out of the concept. Although the Church Fathers were committed to a literal meaning of the term, and placed the doctrine of God at its center (as alluded to by Scott and Cavanaugh),<sup>33</sup> it became apparent from the Middle Ages onward that this doctrine was only one of many branches of theology. In Richard Hooker's definition, theology is a priori perceived as "the science of things divine"<sup>34</sup> in a general sense, that is, not just pertaining to the deity itself. It is beyond the scope of this paper to examine all of the different historical understandings of theology. We will, therefore, focus on two important questions connected to the issue at hand: to what degree must a religious text be systematic, and what level of abstraction is required before it can be considered theology?

Although compared in the Middle Ages to a mistress and her maidservant, the historical relationship between theology and philosophy more often resembled that of sisters. Indeed, during the long course of their respective developments, there was a notable trend toward the broadening of parameters, and a growing readiness to include nonsystematic deliberations under the rubric of philosophy.<sup>35</sup>

<sup>31</sup> Abraham Melamed, "Is There a Jewish Political Thought? The Medieval Case Reconsidered," *Hebraic Political Studies* 1 (2005) 24–56, at 43. Later in his comments, he is more specific: "Political theology, then, deals with God's government over man, with divine commandments given to men, with the governing relationship between God and humankind (theocracy is literally "God's governance") and with the religious purpose of political life" (ibid., 44). See also Uriel Tal, *Political Theology and the Third Reich* (Tel Aviv: Sifriyat Poalim, 1991) 60–63, 70–71 [Hebrew].

<sup>32</sup> See, for example, Michael Kirwan, *Political Theology: An Introduction* (Minneapolis, Minn.: Fortress, 2009) 4–9.

<sup>33</sup> Thus, for example, in his definition of theology, Augustine described it as a discipline whose purpose is an "account or explanation of the Divine" (de divinitate rationem sive sermonem; *City of God* 7.1). For the translation, see *The City of God* (trans. Marcus Dods; Peabody, Mass.: Hendrickson, 2009) 217.

<sup>34</sup> Richard Hooker, *Of the Laws of Ecclesiastical Polity* (Oxford: Clarendon, 1888) book 3, chap. 8, art. 11.

<sup>35</sup> In common usage it is acceptable to talk about the "underlying philosophy" of nonphilosophical phenomena and disciplines. In this spirit, we could also recognize "underlying theology" in phenomena that are not categorically theological. However, these underlying philosophies are not considered integral parts of philosophy as a discipline (and in general, the term "underlying philosophies" is never used as a means of explaining the true philosophy of these presuppositions). On the other hand, secular works that are literary, poetic, or scientific in nature, and that deal with fundamental

Likewise, we could in this spirit recognize discussions that are not categorically part of theology as nonetheless part of theological discourse. But to what degree are we willing to extend this broadening trend? Is any text built upon Scripture to be considered theology? May every sermon delivered in church, and every utterance of a believer, be considered theological in nature?

The challenge inherent in these questions finds its match in Orthodox Judaism. This movement, which arose at the beginning of the nineteenth century as a response to the emerging threats to traditional Jewish life and thought, radicalized the Jewish legalistic spirit. The study of Talmud and halakhah now became a central value, with those who devoted their lives to study enjoying particular social prestige.<sup>36</sup> Consequently, the outstanding scholars in these disciplines became the spiritual leaders of the movement; so, too, were the ideological positions of Haredi Judaism formulated by these legalists, rather than by “professional” philosophers or theologians. Notably, their approaches differed dramatically from both of the prominent schools of Jewish thought that dominated up until the eighteenth century: religious-rationalist philosophy and Kabbalah. Indeed, the rise of Orthodoxy from the end of the eighteenth century coincided with the decline of Kabbalah, which had reigned supreme over Jewish theology for centuries,<sup>37</sup> while religious-rationalist philosophy, which had flourished primarily in the Middle Ages, became the domain of Orthodoxy’s opponents, namely the Reform movement and the Jewish Enlightenment, or *Haskalah*.

Given that few viable alternative theological movements developed in European Jewish centers, Orthodox Jews understandably moved in the direction of the nontheological “simple faith.”<sup>38</sup> Moreover, the most influential of the religious movements to come into contact with the large Orthodox communities in Europe—Hasidism and the *Musar* movement—did not develop systematic theologies; practically all of their writings consist of collections of sermons or informal “talks” delivered on incidental occasions. Can these works truly be considered theology? Christianity distinguishes between “systematic” and other branches of

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questions, are at times presented as part of the philosophical discourse. For example, see Collin McGinn, *Shakespeare’s Philosophy: Discovering the Meaning Behind the Plays* (New York: Harper, 2006); Sanford Budick, *Kant and Milton* (Cambridge, Mass.: Harvard University Press, 2010); Thomas Ryckman, *The Reign of Relativity: Philosophy in Physics, 1915–1925* (New York: Oxford University Press, 2007). In truth, it is doubtful if important works by the most prominent philosophers were considered philosophy, at least in the narrow sense of the word, without the later abstractions of scholars.

<sup>36</sup> Haym Soloveitchik, “Rupture and Reconstruction—the Transformation of Contemporary Orthodoxy,” *Tradition* 28 (1994) 64–130, at 82, 92–8; Brown, Hazon Ish, 314, 325, 329.

<sup>37</sup> Benjamin Brown, “The Comeback of Simple Faith: The Ultra-Orthodox Concept of Faith and Its Rise in the 19th Century,” in *On Faith—Studies in the Concept of Faith and Its History in The Jewish Tradition* (ed. Moshe Halbertal and Avi Sagi; Jerusalem: Keter, 2005) 403–43 [Hebrew].

<sup>38</sup> *Ibid.* The only notable exception was German Orthodox Judaism, which at its height numbered only a few thousand members, and whose theology is considered apologetics (and to a great degree, justifiably).



theology; Judaism, by contrast, asks to what extent it is possible to recognize an “*unsystematic theology*.”

In this regard, we must take care to distinguish between theology in its broad and narrow senses. While the latter might be limited to that type of theology developed through systematic and “professional” thinking, the former might include any set of correlated ideas uttered by a religious person and reflecting a larger religious worldview or responding to classical theological questions—even if the formulation is not systematic, or is even haphazard, and if the individual involved does not wish to be considered a theologian. We might call this phenomenon “*indeliberate theology*.”<sup>39</sup> In such instances, scholarly literature often does for these thinkers what they have not done for themselves: namely, reformulating their ideas in a logical manner. As a result, these thinkers appear far more profound and interesting than in their original work. (It must be emphasized, however, that in such circumstances, the scholar must be careful not to create the theology *ex nihilo* but only to paraphrase it.) We might say, then, that indeliberate theology creates a potential theology, and that only through scholarly reformulation can it become an “actual” theology. Yet even in such cases, the process of analysis and interpretation must be based on actual texts and, in order to remain as true as possible to the subject’s original intention, should not suffice with an analysis of acts or deeds.<sup>40</sup>

To be sure, not every religious idea is an “indeliberate theology,” just as not every secular idea is an “indeliberate philosophy.” We can reconstruct a philosophy out of literary, poetic, political, or columnist texts only if we somehow sense that their authors do have a more or less coherent “worldview”—that is, an approach that is more comprehensive than the mere sum of any few ideas. We may reconstruct a theology from religious texts under similar conditions. The interpreter of the “indeliberate theology” has only modest goals: he does not construct the theology in question, but rather *reconstructs* it from existing, fragmentary texts. He does not create the teachings but merely puts them into better order—translating them, as it were, to outside readers whose understanding depends on a more organized presentation. Therefore, we may say that he does his work properly if he does not impose a doctrinal content on the texts but rather only reveals an order of argumentation; when he exposes an internal logic that is already there, but ill-phrased or obscured. The researcher, in this case, is only theology’s midwife.

<sup>39</sup> I have developed this concept in some of my articles. See, e.g., *ibid*, 442.

<sup>40</sup> We could imagine an even more radical method that attempts to reconstruct the theology based on sources that are not textual, such as “underlying theology,” which analyzes the activities of particular individuals or the policy decisions of leaders. This method would work using an approach similar to Kant’s, in which he attempted to uncover the “practical maxim” underlying human acts through a process of universalization, raising it to higher level of abstraction. I do not negate the value of such a method in principle, but it seems to me dangerous in actuality: It opens the door to baseless speculation and to the subjective over-involvement of the scholar in his research. In the more modest method that I suggest here, the researcher or systematic interpreter can reformulate the theology only from existing texts and must waive interpretation if they do not exist.



According to this reasoning, we can say unequivocally that Haredi thinkers express an “indeliberate theology” on a variety of topics. Both the Hasidic rebbe and the Lithuanian Musar thinker, for example, evince a wide-ranging theological approach, and respond to a good number of theological questions (mostly Jewish in nature, but at times universal as well). Yet they do so in their own, unique way and in keeping with their own, unique cultural heritage. Indeed, almost any member of the Orthodox world can distinguish a Hasidic text from a Musar text, not just by virtue of their distinct styles, but also by their content. This ease of distinction reflects the fact that these schools of thought are associated with well-crystallized theology, even if it has not been formulated systematically. As such, by collecting and reorganizing the sources, a scholar can indeed reconstruct a well-organized argument, and discover the “indeliberate theology” they disclose. Based on this standard, there is no doubt that the doctrine of *Da’at Torah* may also qualify as a theological creation of Haredi Judaism.

The above discussion accounts for one component of political theology—that is, theology. But what about the political component? I do not intend here to clarify the definition of “political” in general but rather to examine its meaning within the context of religious thought. Here, too, there is an array of suitable definitions, ranging from the narrowest to the broadest. In this instance, we will once again establish the narrow meaning by borrowing from the lexicon of political theology’s sister: political philosophy. Classical political philosophy dealt primarily with the issue of what constitutes the best form of governance for an organized group of people, or, to borrow from Hobbes, the question of *The Matter, Forme, and Power of a Common Wealth Ecclesiasticall and Civil*.<sup>41</sup> In contrast, modern political thought is interested in other perspectives on the political, including any matter that affects the identity, boundaries, or organization of a society. Here, too, Schmitt played a key role in characterizing the concept of the political in its broad sense, namely, that it goes beyond the confines of the state. Schmidt sees the political as anything that relates to friend/enemy relationships.<sup>42</sup> To his mind, the concept of the state already presupposes the concept of the political and, therefore, the state must be defined through the political, and not vice versa. This definition, as well, relates to the term “political” in its general social context.

In the religious context, we can distinguish between at least three genres that deal with the political in its broad sense: 1) works of religious thought that deal with fundamental questions relating to the desired nature of governance (i.e., political thought in the narrow sense); 2) religious ideologies that deal with current political issues, even if they do not relate specifically to the ideal nature of governance, and that reflect the values by which the religious community is expected to function; and 3) works in the discipline of religious *law* that touch upon public matters. Obviously, the political in the narrow sense includes only the first genre, but the

<sup>41</sup> This is the subtitle of Thomas Hobbes’s *Leviathan*.

<sup>42</sup> Carl Schmitt, *The Concept of the Political* (Chicago: The University of Chicago Press, 1996) 26.

political in the broader sense includes all three,<sup>43</sup> along with others relating to collective identity and social organization.

After initiating *Da'at Torah* into the theology club, can we also include it under the rubric of the political theologies? It would appear that, at first, it fits only within the framework of political theology in the broad sense, for it does not deal with the governance of states, nor does it touch upon the phenomenon of sovereignty. Nevertheless, it seems to me that it can—if just barely—be considered even a part of political theology in the narrow sense, since, in the final analysis, it deals with the question of the ideal form of governance for religious Jewish society, despite the lack of a sovereign framework. Moreover, the model presented by Scott and Cavanaugh does not specifically relate to the context of a state but includes self-governance of communities and individuals; likewise, Melamed emphasizes that “today it is standard practice in political research to assume that even frameworks without sovereignty, like the community, can be considered as ‘political systems’ and to examine them as such.”<sup>44</sup>

This conception of the political can only enlighten and enrich the classical definition of political theology. As Lorberbaum pointed out, for centuries the political framework of the Jews was the community, not the sovereign state, and it is therefore natural that Jewish political theology would reflect this experience.<sup>45</sup> In addition, Haredi Judaism did not generally aspire to statehood; from its standpoint, the closest thing to sovereignty was the closed community in which Haredi Judaism existed: a society with a quasi-autonomous internal structure. On the other hand, Jewish political theology seldom deals with issues that are generally included within the definition of political theology in its broad sense. I would, therefore, suggest that *Da'at Torah* constitutes political theology even in the narrow sense—although not, crucially, in the very narrowest one.<sup>46</sup>

## ■ *Da'at Torah* and the Democratic Spirit

If we were to adopt the broad definition of political theology, we would find only a handful of political theologies in twentieth-century Jewish religious thought

<sup>43</sup> A similar list of genres through which political theology can be formulated (either directly or indirectly) is presented by Eliezer Don Yehiya and Bernard (Baruch) Susser, “Prologomena to Jewish Political Theory,” in *Kinship and Consent* (ed. Daniel J. Elazar; Washington, D.C.: University Press of America, 1983) 91–111, at 91–6. Melamed also followed in their footsteps: see Melamed, “Is There a Jewish Political Thought?,” 41–2.

<sup>44</sup> Don Yehiya and Susser, *ibid.*, 98–102, 108; Melamed, *ibid.*, 40.

<sup>45</sup> Menachem Lorberbaum, “Medieval Jewish Political Thought,” in *The Cambridge Companion to Medieval Jewish Philosophy* (ed. Daniel H. Frank and Oliver Leaman; Cambridge: Cambridge University Press, 2003) 176–200, at 176–77.

<sup>46</sup> This classification is not merely semantic. The more political theologies multiply, and the more they become objects of academic study, the more we find ourselves in need of analytic tools to distinguish between political theology and other forms of thought, and between various types of political theology.

that meet its criteria, ranging from the radical messianism of certain segments of Religious Zionism on the right to Martin Buber's utopianism on the left.<sup>47</sup> Even if we count approaches opposed altogether to the ideas of sovereignty and statehood, as professed, for example, by Jakob Rosenheim,<sup>48</sup> the number will not grow by much. Were we to adopt the narrow definition of political theology, this number would be reduced even further, and would include only three theories—all of which, it should be noted, developed as a response to the Zionist challenge: the “Halakhic Democracy” of Rabbi Hayim Hirschensohn (1857–1935)<sup>49</sup> and the similar model suggested by Rabbi Shimon Federbush (1892–1969);<sup>50</sup> the “Torah State” advocated by Isaac Breuer (1883–1946)<sup>51</sup>; and the doctrine of *Da'at Torah*. Hirschensohn proposed a modern democratic system inclusive of a few conservative limitations, such as unequal voting rights, the doctrinal justification for which came from theology.<sup>52</sup> Breuer, too, proposed a state with a primarily democratic government,

<sup>47</sup> The number is particularly small when compared to the abundance of such theologies in Christianity and Islam during the same years.

<sup>48</sup> Gershon Greenberg, “Sovereignty as Catastrophe: Jakob Rosenheim's *Hurban Weltanschauung*,” *Holocaust and Genocide Studies* 8 (1994) 202–24. Rosenheim believed that the Torah-based unity of the Jewish people that was shattered by the Emancipation would be reconstructed and embodied by Agudat Yisrael. See Alan L. Mittleman, *The Politics of Torah: The Jewish Political Tradition and the Founding of Agudat Israel* (New York: SUNY, 1996) 19–21, 52–4, 135–7. See also idem, “Some German Jewish Orthodox Attitudes Toward the Land of Israel and the Zionist Movement,” *Jewish Political Studies Review* 6 (1994) 107–25, esp. 117–23.

<sup>49</sup> See Eliezer Schweid, *Democracy and Halakhah* (Lanham, Md.: University Press of America, 1994); David Zohar, *Jewish Commitment in a Modern World: Rabbi Hayim Hirschensohn and His Attitude Towards the Modern* (Jerusalem: The Shalom Hartman Institute, 2003) [Hebrew].

<sup>50</sup> Rabbi Shimon Federbush, *The Law of the Kingdom in Israel* (Jerusalem: Mosad Harav Kook, 1952) [Hebrew]. For an in-depth analysis of his theory, its comparison to Breuer's approach, and its problematic aspects, see Alan Mittleman, “Mishpat Hamlukhah and the Jewish Political Tradition in the Thought of R. Shimon Federbush,” *Jewish Political Studies Review* 10 (1998) 67–86.

<sup>51</sup> See Isaac Breuer, *Nahaliel* (Jerusalem: Mosad Harav Kook, 1982) 310–30 [Hebrew]; Alan L. Mittleman, *Between Kant and Kabbalah* (Albany, N.Y.: SUNY, 1990) 166–74, 181–82; Eliezer Schweid, “The Torah State in the Thought of Isaac Breuer,” in *Isaac Breuer: Studies in His Thought* (ed. Rivka Hurwitz; Ramat Gan: Bar-Ilan University Press, 1988) 125–46 [Hebrew]; and Jacob Leowinger, *Between Routine and Innovation* (Jerusalem: De'ot, 1973) 57–76 [Hebrew]. Breuer's “Torah State” vision was contested by his rival Rosenheim, who sufficed with a Torah party—Agudat Yisrael. The two agudists were engaged in ideological and personal disputes for many years. See Mittleman, *Politics of Torah*, 123–40.

<sup>52</sup> According to the analyses of Schweid (*Democracy and Halakhah*, 7–11, 47–76) and Zohar (*Jewish Commitment*, 163–80), Hirschensohn's idea of “halakhic democracy” was based on the concept of a covenant. Hirschensohn distinguished between two types of covenants: Divine and human. The human covenant is what turns a group of individuals into a nation, and in this way creates the framework for nations and states; the Divine covenant comes after the human one has already been implemented, and organizes relationships between people and their God. The human covenant thus precedes the Divine covenant, both temporally and conceptually. As Zohar points out, Hirschensohn perceived the human covenant as the only obligation relevant to the national arena. Thus, a person who has abrogated the Torah and the commandments has abrogated the Divine covenant but can still remain a full participant in the human covenant. Hirschensohn saw Zionism as a revival of the human covenant and the preparation for the development of the new Jewish state



with the exception that his legislative approach is much closer to that of modern theocracy, or a system in which religious law governs without need for popular consent.<sup>53</sup> *Da'at Torah*, as we have seen, does not propose any particular type of government but rather establishes the authority of the Great Torah Sages with regard to public affairs—even if, in reality, that authority functions exclusively within a community of believers. Needless to say, this authority is not achieved through democratic processes. The Great Torah Sages are not “elected” in any organized fashion but instead achieve their positions by virtue of the rabbinic elite’s recognition of their scholarly achievements and leadership abilities. *Da'at Torah* is arguably not a religious version of Plato’s *Republic*, but, if we set aside utopian visions, we may find that *Da'at Torah* is the closest model to that of the

(which in his day was still only an aspiration) as its complete implementation. The government of such a state, even if secular, would not damage the human covenant. He further contended that even from the standpoint of the Torah, the most desirable form of government for the Jewish state would be a democratic government, and he viewed American democracy as a good model. Indeed, he was greatly influenced by American constitutional law (with which he was familiar) and even declared explicitly that this system was, in his eyes, worthy of emulation. Since Hirschensohn viewed participation in the Divine covenant as voluntary, his halakhic-democratic system would not impose religious norms on its citizens. Even the Sanhedrin (the Supreme Court in the halakhic system), which he wanted to revive, was not to judge solely in accordance with halakhic norms, but rather through a synthesis of those norms and a consideration of prevailing popular sentiments in both the religious and secular components of the society. Hirschensohn had faith in the ability of the great halakhic scholars to implement such a synthesis by means of creative exegesis of the halakhah. According to Zohar’s analysis, the only area in which he demonstrated a deviation from the Western democratic model was in his negation of the rule of the majority. This deviation came to expression in his suggested method of governmental decision-making (by means of a “majority of evidence,” rather than a “personal” or “numerical majority”), as well as in his negation of the right of all citizens to be elected to the legislative body in favor of an aristocratic elite (those who “understand what the people need”). He presumed to base this approach on the talmudic sages and on Maimonides. Strange as it seems, the principles of numerical majority and “one man, one vote,” which were internalized more than any other aspects of democracy by the Orthodox community in the second half of the 20<sup>th</sup> cent., were the very ones pushed aside in the “halakhic democracy,” while other principles, which were relatively less well received by this group, were included within it.

<sup>53</sup> From the standpoint of content, there is no doubt that Breuer envisaged a state that exhibited many characteristics of democracy. In fact, it seems that he envisioned a democratic state in all aspects except one: the place of religion in the state. This aspect had implications on both the theoretical and practical levels. On the theoretical level, for example, it found expression in the idea that God, and not human society, is the source of authority for the laws of the state. We see this in the draft constitution that Breuer formulated in 1938, two of the first articles of which read as follows: 1) “The Torah is the law of the Jewish people”; 2) “The force of the Torah as the law of the Jewish people is not dependent on the agreement of the Jewish people or the Jewish community” (Isaac Breuer, “A Blueprint for a Constitution of the Jewish State,” *Hama’ayan* 13 (5733 [1977]) 1–5, at 1 [Hebrew]). In his Hebrew book *Nahaliel*, in which he fleshes out his idea of a Torah state, Breuer writes that many of the norms of the Torah state will overlap with those of regular modern states—but, even so, it is important that they come under the heading, “the Torah state.” In his words, “It is not the content that matters! It is the name that matters!” (Breuer, *Nahaliel*, 313). He was also ready to learn from the general laws of other nations (*ibid.*, 314). These points relate, however, only to civil law. Religious law was, for Breuer, the traditional Jewish one, and he envisioned it as an inherent part of the Torah state’s legal system.



Platonic ideal ever proposed in Jewish political thought.<sup>54</sup> If in the Platonic model the community's political leaders are its philosophers, and the masses were not permitted—indeed, were considered unable—to decide who could or could not wear the toga (i.e., attain “philosopher” status), in the Haredi model this parallel role is held by the talmudic masters.

Thus, *Da'at Torah* stands out among the sparse number of Jewish political theologies, not only because its sphere of action is a non-sovereign society (rather than a state) but also because it enshrines an elitist, antidemocratic ethos. These characteristics contrast, as well, with the Christian political theologies that developed in the West after World War II, all of which show the strong influence of liberal democracy, seen as the form of government most reflective of the Christian spirit. It is almost superfluous to point out that these Christian political theologies (those, for example, of Jacques Maritain,<sup>55</sup> John Courtney Murray,<sup>56</sup> and Reinhold Niebuhr,<sup>57</sup> to mention only a few) sided with democracy; however, even theonomian and dominionist approaches (such as those of Rousas John Rushdoony, Gary North, and Greg Bahnsen) were careful not to negate democracy explicitly, even though, to a large degree, their ideas stood in direct opposition to some democratic values. The Catholic Church adopted democracy as a reflection of rational values already in the days of Pius IX and has promoted this stance more vigorously in modern times, especially in the wake of Vatican II.<sup>58</sup> In fact, it is only in recent years that

<sup>54</sup> This claim would certainly arouse a measure of surprise—and perhaps even derision—among those familiar with both Greek philosophy and Haredi thought. I will therefore offer a qualification: the differences between the two schools of thought are greater than the similarities, both on a basic ideological level and also on the level of the arguments on which they are based. Nevertheless, in spite of all of the differences, they indeed share the point that I mentioned out above. Furthermore, I do not negate the possibility that, in addition to the conceptual-phenomenological affinity between *Da'at Torah* and the Platonic ideal, there might be a historical connection as well, albeit an indirect one: The elitism of the Greek philosophers who established philosophical contemplation as the highest ideal was transmitted to Maimonides, and infused his school of thought. Jewish Lithuanian thought in the 19th and 20th cents. (including that of Rabbi J. B. Soloveitchik) inherited this Maimonidean elitism, but it expanded contemplation to include not only philosophy, but also the study of Halakhah, Talmud, and the legal codes. From there, it is but short path to *Da'at Torah*, which transformed this elitism into a full-blown political theology.

<sup>55</sup> Jacques Maritain, *Man and the State* (Chicago: University of Chicago Press, 1951).

<sup>56</sup> John Courtney Murray, *We Hold These Truths: Catholic Reflections on the American Proposition* (New York: Sheed & Ward, 1960).

<sup>57</sup> Reinhold Niebuhr, *The Children of Light and the Children of Darkness: A Vindication of Democracy and a Critique of Its Traditional Defense* (Chicago: University of Chicago Press, 1944); Reinhold Niebuhr and Paul E. Sigmund, *The Democratic Experience: Past and Prospects* (New York: Praeger, 1969).

<sup>58</sup> See the entry “Democracy” in *NCE*, 745–51, at 745, 749, 751. See also the speech of Pope Paul VI on November 28, 1970, in Manila: [http://www.vatican.va/holy\\_father/paul\\_vi/speeches/1970/documents/hf\\_p-vi\\_spe\\_19701128\\_vescovi\\_en.html](http://www.vatican.va/holy_father/paul_vi/speeches/1970/documents/hf_p-vi_spe_19701128_vescovi_en.html). An exception in this regard is the Society of St. Pius X—and in particular Archbishop Marcel LeFebvre, who claimed that democracy is antithetical to the values of Christianity, but did not call to topple it. The Archbishop and his followers were excommunicated from the Catholic Church in 1988. See, for example, Marcel Lefebvre, *They Have Uncrowned Him* (Kansas City, Mo.: Angelus, 1988) 51.

doubts have begun to arise regarding the compatibility between Christian and democratic principles.<sup>59</sup>

Unlike Christianity, an antidemocratic spirit has found fertile ground in the world of Islam.<sup>60</sup> In contrast to the Reformist branch of Islam, which widely adopted democratic and liberal paradigms,<sup>61</sup> Islamic political theologians of the radical type (such as Hassan el-Bana and Said Kutub, the founder and leading member of the Muslim Brotherhood, respectively) dismissed democracy as a Western political system antithetical to Islam.<sup>62</sup> Nevertheless, the formulators of the Iranian constitution of December 1979, who established a division between elected institutions and authoritative religious institutions under the directorship of the supreme spiritual leader (*Maghame Rahbari*), called for political-party pluralism—albeit subordinate to the adherence to Islamic tenets—and democratic

<sup>59</sup> See, for example, Robert P. Kraynak, *Christian Faith and Modern Democracy: God and Politics in the Fallen World* (Notre Dame, Ind.: Notre Dame University Press, 2001) 1–7.

<sup>60</sup> An interesting scholarly debate has been carried on about the weight of antidemocratic ideas in contemporary Islam. The scholarly consensus had been that the predominant thinkers of 20<sup>th</sup>-cent. Islam viewed democracy as a Western, anti-Islamic product. See, for example, Ali Merad, “The Ideologisation of Islam in Contemporary Muslim World,” in *Islam and Power* (ed. Alexander S. Cudsi and Ali E. Hillal Dessouki; London: Helm, 1981) 39–41. Against this image, some scholars pointed out that since the 1990s a growth of democratic tendencies among Islamic intellectuals can be identified. See John L. Esposito and James P. Piscatori, “Democratization and Islam,” *Middle East Journal* 45 (1991) 427–40; Frédéric Volpi, “Political Islam and Democracy: Introduction,” in *Political Islam* (ed. Frédéric Volpi; Oxon: Routledge, 2011) 135–37; Carrie Rosefsky Wickham, “The Path to Moderation,” in *Political Islam* (ed. Frédéric Volpi; Oxon: Routledge, 2011) 172–94; Abdou Filaly-Ansary, “Muslims and Democracy,” in *Islam and Democracy in the Middle East* (ed. Larry Diamond, Mark F. Plattner, and Daniel Brumberg; Baltimore: The Johns Hopkins University Press, 2003) 193–207. John Esposito even risks the assessment that “most Muslims today accept the notion of democracy” (*Islam and Politics* [4th ed.; Syracuse, N.Y.: Syracuse University Press, 1998] 326). However, even regarding this late stage some scholars suspect that the change is only a tactic at best and often just rhetorical. See Esposito, *Islam and Politics*, 173–74; Meir Litvak, “Islamic Democracy vs. Western Democracy: The Debate among Islamists,” in *Middle Eastern Societies and the West* (ed. Meir Litvak; Tel Aviv: Moshe Dayan Center for Middle Eastern and African Studies, 2006) 199–219; Emmanuel Sivan, “The Islamic Resurgence: Civil Society Strikes Back,” *Journal of Contemporary History* 25 (1990) 353–64; Martin Kramer, “Islam vs. Democracy,” *Commentary* (January 1993) 35–42 (a revised version is available at <http://www.martinkramer.org/sandbox/reader/archives/islam-vs-democracy/>); and Gudrun Kramer, “Islamist Notions of Democracy,” *Middle East Report* 183 (1993) 2–8. Others imply that the process is only in its beginnings: see, e.g., Bernard Lewis, “A Historical Overview,” in *Islam and Democracy in the Middle East* (ed. Larry Diamond, Mark F. Plattner, and Daniel Brumberg; Baltimore: The Johns Hopkins University Press, 2003) 208–19. Anyway, all those scholars seem to agree that until the 1990s the predominant trend Islam was antidemocratic and that even today the radical Islamists are still such.

<sup>61</sup> Rosefsky Wickham, “Path to Moderation,” 172–94; Radwan A. Masmoudi, “The Silenced Majority,” in *Islam and Democracy in the Middle East* (ed. Larry Diamond, Mark F. Plattner, and Daniel Brumberg; Baltimore: The Johns Hopkins University Press, 2003) 258–64. A staunch liberal-Muslim attack against the radicals is found in: Fatima Mernissi, *Islam and Democracy: Fear of the Modern World* (Reading, Mass. Addison-Wesley, 1992) 42–59.

<sup>62</sup> Merad, “Ideologisation of Islam,” 37–48; Esposito, *Islam and Politics*, 324–5; see also the discussion on Al Mawdudi’s model of “theodemocracy,” idem, *Islam and Politics*, 151–55; Litvak, “Islamic Democracy,” 199–219.

elections, even as they defended the predominance of the supreme leader and the “guardianship of the Islamic jurists.” Because the *Velayat Faqih* deals with an Islamic state and not simply the governance of an Islamic community within a secular state, it seems fair to conclude that it had no choice but to take modern democratic sentiments into account, and to reach a kind of compromise with them.<sup>63</sup>

The relationship between *Da‘at Torah* and democracy is similarly complex. On the one hand, as I demonstrated above, *Da‘at Torah* is a wholly elitist form of governance, one that is in no way subordinate to popular sentiment. Furthermore, since *Da‘at Torah* was intended as a doctrine for the governance of a closed community, and not a sovereign state, it does not face pressures to compromise, and can freely grant the “Great Sages of the Generation” an authority unlimited by any official body. On the other hand, *Da‘at Torah* has a decidedly less authoritative position than might be perceived at first glance.

The fact that *Da‘at Torah* functions within a non-sovereign framework makes it, somewhat ironically, more democratic than it appears. For instance, Haredi authorities never sought to establish enforcement mechanisms, preferring instead that their political power derive from their ethical-religious authority. Yet without enforcement mechanisms, the Torah sages cannot function as a truly authoritative governing body. Furthermore, participation in Haredi society is essentially voluntary: in principle, anyone who does not trust its leadership is free to leave. (Although secession involves contending with harsh social pressures, this does not constitute an enforcement mechanism in the political sense of the term.) Thus, rabbinic authority, although powerful, does to some degree rest on public support. Again, this situation does not constitute a formal democracy, but it also does not resemble the authoritarian power structure that characterizes sovereign theocratic states. We find, therefore, that while on the theoretical level *Da‘at Torah* embodies an almost belligerently antidemocratic approach, one that is exceptional among other Jewish and Christian political theologies of the twentieth century, it also, somewhat paradoxically, features an *implied* democratic spirit, in that it cannot impose rabbinic leadership on anyone who does not voluntarily choose to subordinate himself to it. Indeed, in the sole instance in which the leadership of the Lithuanian sector attempted to extend its control over all of Haredi society—in the period of Rabbi Shach—the process was a complete failure.<sup>64</sup>

Some may recall the dialogue between the Prince and the King in *The Little Prince*. When the Prince yawns, the King tells him it is impolite, but when the Prince explains that he cannot help it, the King replies: “Ah, then . . . I order you to

<sup>63</sup> On the principles and formation of the Iranian constitution, see Fakhreddin Azimi, *The Quest for Democracy in Iran: A Century of Struggle against Authoritarian Rule* (Cambridge: Harvard University Press, 2008) 357–435; Bahman Baktiari, *Parliamentary Politics in Revolutionary Iran: The Institutionalization of Factional Politics* (Gainesville, Fla.: University of Florida Press, 1996) 53–67.

<sup>64</sup> This process was made possible by, among other factors, the radicalization of the concept of *Da‘at Torah* after the Holocaust, including the adoption of an approach approximating the infallibility of the Great Torah Sages.



yawn.” When the prince replies that now he cannot do it because he is frightened, the King says: “Then . . . I order you sometimes to yawn and sometimes [not].” When the Prince asks, “May I sit down?” the King responds: “I order you to do so,” and when he begs to ask a question, the King immediately replies: “I order you to ask me a question.” The King then sums up: “Accepted authority rests first of all on reason. If you ordered your people to go and throw themselves into the sea, they would rise up in revolution. I have the right to require obedience because my orders are reasonable.”<sup>65</sup> I would not go so far as to argue that the same dynamics are at work in *Da’at Torah*, just as I would not argue that the orders of the Torah masters are always “reasonable.” Nonetheless, the point made by Saint-Exupéry is pertinent to many presumably authoritarian political systems—and even more so to religious systems in modern societies, where religion becomes a “product” in the “market”<sup>66</sup> and where the authorities are not afraid of “revolution” but simply of being deserted. Thus, the Haredi leadership structure rests on a threefold paradox: it is an authoritarian system that derives its strength from democracy, as it can exist (and even flourish) only in democratic societies; it is simultaneously endangered by democracy (since in free societies religion is voluntary) and must compete in the marketplace of ideas; and finally, it is a system that prides itself on its nondemocratic character even as it is forced to act *malgré soi*, in a semi-democratic way, as otherwise its impotence will fade out.

### ■ Subtle Infallibility, “Political Infallibility”

As discussed above, the Holocaust left the Great Torah Sages vulnerable to attack, both for failing to grasp the severity of the circumstances and for not instructing their followers to leave Europe. One of those who were disappointed by the sages’ public leadership was Rabbi Joseph B. Soloveitchik, originally a member of the Council of Torah Sages of Agudat Yisrael in the United States. Shortly after the end of World War II, when the proportions of the destruction became known, Rabbi Soloveitchik decided to leave Agudat Yisrael and join the Religious-Zionist Mizrahi movement—largely because, unlike the spiritual leaders of the former (and of Haredi Judaism in general), the Mizrahi movement consistently encouraged immigration to Israel. In his words, “the years of the Hitlerian Holocaust, the establishment of the State of Israel, and the accomplishments of Mizrahi in the Land of Israel convinced me of the correctness of our movement’s path.”<sup>67</sup> This change of allegiances, it must be understood, was for him not a matter of simple political-organizational preference. Rather, it was a much deeper, more fundamental change of priorities, what we might call a change in *theological* stance. Put simply, Rabbi Soloveitchik

<sup>65</sup> Antoine de Saint-Exupéry, *The Little Prince* (New York: Reynal & Hitchcock, 1943) ch. 10.

<sup>66</sup> Peter Berger, *The Sacred Canopy: Elements of A Sociological Theory of Religion* (New York: Doubleday, 1967) 151–2.

<sup>67</sup> Rabbi Joseph B. Soloveitchik, “And Joseph Dreamt a Dream,” in *Five Addresses* (Jerusalem: Tal Orot, 1983) 36.

came to perceive God's will as being derived from reality, as opposed to the Torah and *Da'at Torah*.

To understand the significance of Rabbi Soloveitchik's theological transformation, we need only compare certain of his statements from the prewar and postwar years. For example, when speaking in memory of Rabbi Hayim Ozer Grodzinski, he expressed an unqualified Haredi position regarding the ideal image of a spiritual leader: that is, he denied any distinction between leaders who possess the authority to decide on issues of halakhah and those with the authority to decide on public affairs.<sup>68</sup> After the Holocaust, however, he wrote the essay "And Joseph Dreamt a Dream," in which he portrays Joseph and his brothers as two typologies that differ in the way they understand reality. Rabbi Soloveitchik posits that Joseph's dreams reflect the paradigm of perceiving the will of God within unfolding events, which, in his view, describes the leaders of the Religious-Zionist Mizrahi movement. Joseph's brothers, on the other hand, represent the conservative approach of the Haredi leadership: "The brothers, however, were unanimous in their opinion that it is forbidden to gaze too intently into the mirror of the future—'do not probe that which is wondrous to do—that one must judge the future by the present.'"<sup>69</sup> The historical reality proved, in Rabbi Soloveitchik's opinion, that the leaders of Mizrahi were correct: the Zionist enterprise had secured the future of their brothers in Europe, just as Joseph's accomplishments in Egypt secured the future of his brothers, who would otherwise have perished in the famine in the Land of Canaan. In sum, the sages, who presumed to issue rulings based on *Da'at Torah*, had misread the map. He summarized his position as follows:

God handed over technical legal matters to the authority of Sages, to rule on what is clean and what is unclean, to decide between obligation and exemption, forbidden and permitted. *But in historical questions . . . those relating to the destiny of the Eternal People, God Himself decides as to whose interpretation shall become the law* (the historical development). Nor can anyone dispute the ruling of God in this domain. In the controversy between Joseph of yore and his brothers thousands of years ago, God decided in accord with Joseph's interpretation of the historical process. In our days, the Creator of the universe similarly decided that the (historical) "law" will be as the Joseph of 5662 [i.e., the Mizrahi].<sup>70</sup>

Notably, such claims—and ones even harsher—were not rare in the Haredi world after World War II. Haredi thinkers coped with this crisis in a variety of ways. Some—albeit very few—admitted their mistake, even if said admission was weak and partial;<sup>71</sup> others, however, denied that any mistake had been made, arguing

<sup>68</sup> Idem, "Bearers of the Mitre and the Breastplate" in *Thoughts and Judgments* (Jerusalem: World Zionist Organization, 1982) 187 [Hebrew]. The analysis here follows in the footsteps of Kaplan, "Da'at Torah," 8–10.

<sup>69</sup> Soloveitchik, "Joseph Dreamt a Dream," 29.

<sup>70</sup> Ibid., 32 [italics added].

<sup>71</sup> See Brown, "The Doctrine of Da'at Torah," 579–81.

that the rulings of the sages were correct given the circumstances in which they functioned.<sup>72</sup> Some leaders deemed the apparent “misreading of the map” to be irrelevant, insisting that *Da‘at Torah* constitutes halakhic decisions, and are likewise not to be judged by results,<sup>73</sup> while others denied the very possibility of error on the theological level.<sup>74</sup> This last response, which takes a radical approach to the authority of *Da‘at Torah*, comes very close to a dogma of infallibility.<sup>75</sup> Nevertheless, there are significant differences between the Roman Catholic doctrine of the infallibility of the Pope (and of the Church in general) and the doctrine of *Da‘at Torah*, which I will clarify below.

The Roman Catholic concept of infallibility is based on the belief that the Church is the “Body of Christ”—that it represents, in other words, the quality of supernatural grace, sometimes referred to as “charism.”<sup>76</sup> By contrast, in the doctrine of *Da‘at Torah*—at least in its first two stages of development, that is, until the Holocaust—we find no such element. Indeed, this early *Da‘at Torah* did not even presume for itself the lesser claim of inspiration by a “holy spirit” (a point that shores up the *Litvish* character of the doctrine, as opposed to the Hasidic one, with its emphasis on the divinely inspired *tzaddik*). Claims similar to those of infallibility did, however, arise in discussions on *Da‘at Torah* following the crisis of “faith in the sages” after the Holocaust. Here, for the first time, we come across the argument that the sages do not err; that, moreover, it is actually those who *criticize* them for erring who are mistaken. The most prominent proponent of this position was Rabbi Eliyahu E. Dessler, the *mashgiah ruhani* (spiritual mentor) of the yeshiva at Gateshead, England, and later of the prestigious Ponivezh Yeshiva in Bnei Brak, Israel. He outlined this position in his article, “A Letter on Faith in the Sages,”<sup>77</sup> written in response to a Haredi Jew who called the Great Torah Sages to task for their mistaken policy regarding emigration from Europe before the Holocaust. It was included in his influential book *Mikhtav Me’elياهو*, which found a receptive

<sup>72</sup> Ibid., 581–82.

<sup>73</sup> Ibid., 584–85.

<sup>74</sup> Ibid., 582–83.

<sup>75</sup> The radicalization of a religious doctrine, particularly following its failure, is a known phenomenon in the sociology of religion. See Leon Festinger, Henry Riecken, and Stanley Schachter, *When Prophecy Fails: A Social and Psychological Study of a Modern Group that Predicted the Destruction of the World* (New York: Harper & Row, 1964); and Albert I. Baumgarten, “Four Stages in the Life of a Millennial Movement,” in *War in Heaven/Heaven on Earth: Theories of the Apocalyptic* (ed. Stephen D. O’Leary and Glen S. McGhee; London: Equinox, 2005) 61–75.

<sup>76</sup> See *Lumen Gentium*, article 25, [http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_const\\_19641121\\_lumen-gentium\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19641121_lumen-gentium_en.html); and Richard Gaillardetz, *Witnesses to the Faith: Community, Infallibility, and the Ordinary Magisterium of Bishops* (New York: Paulist, 1992). Indeed, there was not an insignificant number of cases in which the Popes admitted to mistakes made by the Church, and even asked for forgiveness for its erroneous acts, but they never formulated it as such. The remorse was usually expressed regarding an act done in the name of the Church, or perpetrated by those presuming to act on behalf of the Church.

<sup>77</sup> Rabbi Eliyahu Eliezer Dessler, “A Letter on the Subject of Faith in the Sages,” in *Strive for Truth* (ed. Rabbi Aryeh Carmel; [3 vols.]; Jerusalem: Feldheim, 1978) 1:217–25.



audience in *Litvish* yeshiva circles. The inclination toward infallibility is evident already in the letter's introduction, in which Rabbi Dessler expresses shock at the assumptions of the questioner: "From your words I see that you believe that all the great ones of Israel, all of whose deeds were for the sake of Heaven, who combined intellectual genius with heroic righteousness, . . . all of them are supposed to have made a terrible mistake."<sup>78</sup> He continues, "God forbid that such a thing be in Israel! It is forbidden even to listen to words like these, let alone to say them."<sup>79</sup> After emphasizing the intellectual and ethical superiority of the great rabbis, he goes on to attribute supernatural qualities both to them and their "meetings":

Whoever was present in their meetings could see with his own eyes the extent and depth of the sense of responsibility with which they approached these matters; it could be seen on their faces, when they deliberated for the sake of Heaven and devoted their minds to considering the problems of *Klal Yisrael* [the Jewish collective]. . . . Whoever had the merit to stand before them on such an occasion could have no doubt that he could see the *Shechina* [Divine immanence] resting on the work of their hands and [that] the Holy Spirit was present in their assembly.<sup>80</sup>

Despite Dessler's confidence, however, there were those who doubted that the "Holy Spirit was present in their assembly"; for example, a number of *Da'at Torah*'s critics have claimed that this approach likens the status of the sages to that of prophecy—which, according to the Talmud, ceased to exist already at the beginning of the Second Temple period.<sup>81</sup> Yet from Rabbi Dessler's perspective, the spiritual heights attained by the sages could not but demand complete obedience:

Our Rabbis have told us to listen to the words of the Sages "even if they tell us that right is left," and not to say, God forbid, that they must be wrong because little I "can see their mistake with my own eyes." My seeing is null and void and utterly valueless compared with the clarity of their intellect and the divine aid they receive. No *Bet Din* [rabbinical court] can revoke the decrees of another *Bet Din* unless it is greater in number and in wisdom;<sup>82</sup> failing this, it is very likely that what they think they "can see with their own eyes" is merely imagination and illusion. This is the Torah view concerning faith in the Sages.<sup>83</sup>

<sup>78</sup> *Ibid.*, 217. Rabbi Dessler lists the names of the Great Torah Sages of the generation, and of preceding generations, all of which are esteemed in the Haredi pantheon. The very mention of these names in succession, Dessler seems to say, should be enough to make the questioner ashamed at having dared to reproach the "holy."

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*, 218.

<sup>81</sup> *b. B. Bat.* 14b.

<sup>82</sup> *b. Meg.* 2a; *m. 'Ed.* 1:5; and more. Rabbi Dessler's theological stance rests upon a halakhic source; nonetheless, it is not an all-encompassing principle. For an initial analysis, see *The Code of Maimonides* (trans. Abraham M. Hershman; New Haven, Conn.: Yale University Press, 1949) 140–41 (book 14 [Judges], section "Rebels," chapter 2, articles 1–4) and the commentators on it.

<sup>83</sup> Dessler, "Faith in the Sages," 219. According to some scholars, the "Letter on the Subject

Put simply, in the conflict between *Da'at Torah* and “seeing” (in the original Hebrew version Rabbi Dessler uses the word “sense,” a term often used to denote intuition or “common sense,” but here it refers also to the five ordinary senses), *Da'at Torah* holds sway. In practical terms, this argument precludes the possibility of criticizing *Da'at Torah*. So, too, in the view of those who attribute to *Da'at Torah* a halakhic status, such as the Hazon Ish and the Brisker Rov, there is no feasible way to criticize *Da'at Torah*, since it exists on a plane completely above that of the test of outcomes: the Great Torah Sages rule on the proper course of action, and believers must follow their guidance, without any expectation of a reward in this world.<sup>84</sup> Rabbi Dessler, in a slightly nuanced claim, holds that the correctness of their rulings may also be discernible in this world, but the perspective of the individual who criticizes them is simply too narrow to perceive it. In support of this position, he offers the story of the Book of Esther in which the casual observer might at first assume that the course of action adopted by Mordecai and Esther was reckless and bound to fail, only to learn at the story's end that their approach was in fact correct, in part, because their intent was directed toward the Divine will.

It should be known, however, that even in Rabbi Dessler's formulation, we do not find a complete negation of the possibility of error: a “court”—that is, the Great Torah Sages—can in fact err; the key point is that it can only be criticized by a court that is greater in number and wisdom and not by mere laypeople.<sup>85</sup> We thus have a position that approaches infallibility but does not declare it outright. Notably, even at the height of the doctrine's popularity, we would be hard-pressed to find any explicit declarations that the rulings of the Great Sages are absolute and eternal truths, irrevocable and never subject to error. In this respect, then, there is a clear difference between *Da'at Torah* and the Catholic dogma.

An additional difference between the Catholic doctrine of infallibility and *Da'at Torah* relates to the question of in whose hands the alleged infallibility rests. In the history of the Church, there is a long-standing tension between those who viewed the Pope as infallible and those who reserved that merit for the Ecumenical Councils. The infallibility of the Pope was decreed only at the First Vatican Council in 1870 and was limited to cases in which the Pope rules *ex cathedra* on “a doctrine

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of Faith in the Sages” completes the historic trend within the Lithuanian community, in which the leaders became somewhat likened to the Hasidic Tzaddik. Indeed, Rabbi Dessler, who was influenced by Hasidism and demonstrated a supportive attitude towards it (see, e.g., *Mikhtav Meeliyahu* [ed. Rabbi Aryeh Carmel; Jerusalem: Sifriyati, 1997] 5:35–39), describes the Torah sages here in a manner that is reminiscent of the descriptions of the Hasidic masters by their followers. Of course, Rabbi Dessler's formulation was not the final word on the subject, and we can find after him other Haredi descriptions, ones that are even more radical in this regard (for example, see Rabbi Joseph Abraham Wolf, *The Age and Its Problems* (5 vols.; Bnei Brak: Rabbi J. A. Wolf Foundation for Book Publications, 1981) 2:298 [Hebrew]. Yet even in those cases, to the best of my knowledge, there is no direct connection to the concept of infallibility.

<sup>84</sup> See above, nn. 21–24.

<sup>85</sup> *m. 'Ed. 1:5.*

regarding faith or morals to be held by the Universal Church.”<sup>86</sup> The Ecumenical Councils, by contrast, were historically seen as the continuation of the gatherings of the Disciples of Jesus.<sup>87</sup> In *Lumen Gentium* (1964), the infallibility of the Councils was reaffirmed and was applied as well to agreements reached by all the Church’s bishops (even if they do not meet in one place). In order to prevent the Councils from reaching a mistaken interpretation, however, it was established that all decisions must be subordinate to Papal consent. *Lumen Gentium* further emphasizes that beyond these conditions, “the individual bishops do not enjoy the prerogative of infallibility.”<sup>88</sup> In any case, the Holy See in Rome and the Ecumenical Councils are part and parcel of the church establishment, and it is clear from the document that Catholic infallibility can never be attributed to a non-establishment, purely charismatic figure or institution.

By contrast, *Da’at Torah* expanded to include the idea of infallibility only in its third, post-Holocaust stage of development—that is, the stage in which it was further detached from an establishment framework and sought to grant the highest degree of authority to individuals who were not necessarily members of the Council of Torah Sages. These rabbis were recognized as “Great Sages of the Generation” not because of their formal positions but precisely because of their charismatic qualities. Moreover, even though Lithuanian yeshiva culture, particularly from the third stage onward, recognized one particular leader as the “Great Sage of the Generation,” it did so not as a result of any fundamental or eternal principle, but rather as a testament to the wisdom and character of the rabbi in question.<sup>89</sup> Even so, it should be noted that this claim met with stiff resistance from many directions. As we recall, from a theological standpoint, *Da’at Torah* is associated with the doctrine of “everything is in it,” which implies the infallibility of the Torah, and not of any individuals or institutions who might claim to represent it.

<sup>86</sup> Quoted by *The Christian Faith in the Doctrinal Documents of the Catholic Church* (ed. Jacob Neusner and Jacques Dupuis; 6th ed.; New York: Alba House, 1996) 839; and B. Cuthbert Butler, *The Vatican Council* (London: Longman’s, 1930) 295. There is still a lively debate today in the Catholic Church regarding the question of whether a ruling is obligatory, and if so, what are the legitimate parameters of interpretation. Among the doctrine of infallibility’s critics, the theology of the eccentric Hans Küng stands out. See Hans Küng, *Infallible? An Unresolved Inquiry* (New York: Continuum, 1994). Küng views the model as a problematic innovation of the First Vatican Council, which diverges from the central Church line. For a fundamental (but not neutral) analysis of the different sides of this debate, see John J. Kirvan, *The Infallibility Debate* (New York: Paulist, 1971); Hermann J. Pottmeyer, *Towards a Papacy in Communion: Perspectives from Vatican Councils I and II* (Chestnut Ridge, N.Y.: Crossroad, 1998) 76–109.

<sup>87</sup> See the entry “Infallibility” in *The Catholic Encyclopedia* (15 vols.; ed.: Charles G. Herbermann et al.; 15 vols.; New York: The Encyclopedia Press, 1913–1914) 7:790–800, at 795.

<sup>88</sup> *Lumen Gentium*, article 25.

<sup>89</sup> Even this fact must be qualified: until 1985, Rabbi Shach liked to present himself as someone who functioned under the sponsorship of another “Great Sage,” Rabbi Yaacov Yisrael Kanievsky, the “Steipler” (1899–1985). In reality, however, the latter functioned in his shadow and served solely as a rubber stamp for his ideas.



In the final analysis, then, the difference between the Catholic and Haredi doctrines of infallibility is quite noticeable. The Catholic dogma, for starters, makes infallibility dependent upon a number of limiting conditions, such as the technical-legal demand that the ruling be *ex cathedra*, and that it relate purely to questions of theology and morals—such as the establishment of the Immaculate Conception, determined in 1854, and of the assumption of Mary, determined in 1950—and not, significantly, to those of communal affairs.<sup>90</sup> While the infallibility of the Pope has, at times, been formulated to include political concepts of sovereignty,<sup>91</sup> these formulations have appeared primarily in the works of ultramontanist thinkers prior to the First Vatican Council, such as Joseph de Maistre, and were not included in Church dogma afterwards.<sup>92</sup> Likewise, although some papal rulings on moral issues—such as abortion, saving the life of a mother in childbirth, and euthanasia—have political ramifications, most popes have refrained from ruling directly on essentially political matters. True, any such papal rulings may enjoy a degree of moral authority in the eyes of believing Catholics—but nothing more binding than that.

In conclusion, the Catholic dogma of the pope's infallibility was in no way intended as a political theology; rather, it developed primarily as an attempt to bolster the authority of the pope as the supreme religious authority—and not, significantly, as an adjudicator on public issues. Papal infallibility was not established as a response to the secular state or secular ideological movements; neither did it serve as a countervailing force to Protestant theological movements. Rather, it was directed first and foremost against trends of decentralization within the Catholic Church, such as those of the Gallicans.<sup>93</sup> Indeed, we might even say that its essential force lies precisely in its symbolic declaration of the primacy of the pope against those who would deny it. Tierney, for instance, claims that “the papacy adopted the doctrine out of weakness.”<sup>94</sup>

To be sure, the doctrine of *Da'at Torah* also developed in reaction to an “illegitimate” religious movement: religious Zionism.<sup>95</sup> Yet during the period

<sup>90</sup> See the entry “Infallibility” in *NCE*, 496–98, at 497. See also Brian Tierney, *Origins of Papal Infallibility 1150–1350* (Leiden: Brill, 1972) 277–78.

<sup>91</sup> Pottmeyer, *Papacy in Communion*, 78–81.

<sup>92</sup> See, e.g., *Lumen Gentium* and *Catechism of the Catholic Church* (London: Geoffrey Chapman, 1994), a compendium of which is available online: [http://www.vatican.va/archive/compendium\\_ccc/documents/archive\\_2005\\_compendium-ccc\\_en.html](http://www.vatican.va/archive/compendium_ccc/documents/archive_2005_compendium-ccc_en.html). In the council itself, controversies regarding the scope of the definition of infallibility did not usually relate to the inclusion or exclusion of political issues from within its purview.

<sup>93</sup> Klaus Schatz, *Papal Primacy: From Its Origins to the Present* (Collegeville, Minn.: Liturgical Press, 1992) 147–62. There are those who wonder about this, however, since it seems that the struggle was already decided in favor of the ultramontanists in 1870. See Richard F. Costigan, *The Consensus of the Church and Papal Infallibility* (Washington, D.C.: Catholic University of America, 2005) 5.

<sup>94</sup> Tierney, *Origins of Papal Infallibility*, 281. Bacon has a very similar view regarding the rise of *Da'at Torah* (*Politics of Tradition*, 56).

<sup>95</sup> This movement did not, however, place challenging the supreme religious institution at the

in which *Da'at Torah* took shape, the controversy between the Haredim and the religious Zionists was not (or not primarily) over religious or theological-legal differences but rather over political and theologico-political ones. Thus, *Da'at Torah* could not have been described as a “pure” theological doctrine, as was the Catholic position vis-à-vis infallibility. Indeed, unlike the latter, *Da'at Torah* was designed for practical political application and was deliberately formulated in broad terms. In fact — and unlike the Catholic concept of infallibility — *Da'at Torah* rarely touches upon theology, instead directing its energies toward purely political questions, whether they be existential (e.g., issues of war and peace), provincial (e.g., joining or leaving a coalition government), or parochial (e.g., boycotting companies that violate Jewish law) in nature.

For the same reason, however, it was difficult for Haredi adherents of *Da'at Torah* to grant unequivocal infallibility to the Great Sages. Again, in its early stages, the doctrine did not refer to the institutional position of a single individual — such as the Catholic doctrine’s reference to the pope — but rather to a collective body: the Council of Torah Sages. Naturally, in any group of individuals, there are bound to be differences of opinion, thus making it difficult to describe that group’s positions as monolithic or absolute. Later on, to the degree that *Da'at Torah* freed itself from its institutional dimension, becoming instead associated with one charismatic “Great Sage of the Generation,” the possibility of granting that individual infallibility also grew. Nevertheless, it still proved difficult, if not impossible, to create within the context of Orthodox Judaism an absolute model similar to the one established by the First Vatican Council. This may be attributed to a number of factors, such as the decentralized nature of the halakhic tradition of which most of the Great Torah Sages were a part<sup>96</sup> or the decentralized nature of Haredi society in general. But clearly one of the primary reasons for this lack of equivalence is the practical-political nature of the doctrine itself — that is, the fact that the “Great Sage of the Generation” was expected to employ *Da'at Torah* on a daily basis and not just once in several decades. As a result, the doctrine was expected to withstand the test of outcomes. Although it would still be *possible* to defend *Da'at Torah* by means of a dogma of infallibility, it was clearly more palatable to defend it through more nuanced, even banal means, such as those of Rabbi Dessler: we, who are so “small”, simply cannot comprehend the thought processes of the Great Torah Sages; even more so, we cannot judge them.

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top of its agenda, if only because no such institution had existed in Judaism since the demise of the Sanhedrin in the 5<sup>th</sup> cent. C.E. On the contrary, it was religious Zionism that aspired to establish such a supreme body, and it was the Haredim who opposed it. The bodies created by religious Zionists — the Chief Rabbinate of Palestine for example — were likely established to compete with the growing prestige of the parallel Haredi body.

<sup>96</sup> The halakhic tradition is known as a “culture of controversy,” which never produces decisive rulings. See Joel Roth, *The Halakhic Process: A Systemic Analysis* (New York: Jewish Theological Seminary, 1986) 66–67, 77–78, 230–33, 310–15, 329–30.

We may conclude, then, that in stark contrast to the Catholic doctrine of infallibility, whose goals are symbolic and whose declarations are primarily theological, the “infallibility” aspect of *Da‘at Torah*—if we may so call it—derives from the doctrine’s inherently political nature. We might appropriately call this phenomenon “political infallibility,” as opposed to the theological sort.

### ■ *Da‘at Torah* as Practical Theology

Many political theologies have been committed to writing and formulated in a systematic matter for posterity. The vast majority, however, have never been translated into an instrument for practical implementation. This is particularly true of political theologies in the narrow sense, as well as of those that emerged in the twentieth century. We see this, for instance, in the case of *Da‘at Torah*’s two competitors, neither of which was successfully transformed into practical programs: the “halakhic democracy” advocated by Hirschensohn, interest in which has only been revived by scholars in recent decades,<sup>97</sup> and Isaac Breuer’s “Torah state,” proposed as the platform of his party, Agudat Yisrael. Breuer’s proposal was rejected in favor of an amorphous formulation that did not provide a viable alternative to Zionism; ironically, it was then adopted by religious Zionism, especially from the 1940s onward. One of the most outspoken proponents of the idea at the time was the controversial Israeli intellectual Yeshayahu Leibowitz. Leibowitz claimed that the implementation of Breuer’s idea would require changes in the halakhah, a position that brought him into conflict with one of the prominent rabbinic leaders of religious Zionism, Rabbi Moshe Tzvi Neriyah.<sup>98</sup> Soon, however, religious Zionism also abandoned the idea of the “Torah State,” which had increasingly come to be perceived as a clerical program of the Dark Ages, and directed its efforts toward strengthening the Jewish character of the secular-democratic state already in existence. Leibowitz himself also turned away from the concept of a “Torah State,” embracing instead the opposite approach: the complete separation of religion and state. From the 1960s onward, the idea of the “Torah State” almost completely fell out of favor.

By contrast, *Da‘at Torah* had already been in use as a practical political program since the 1920s. It grew in strength and popularity as the years progressed, at least until its fifth stage in the 1990s. Undoubtedly there is some irony in the fact of a theocratic, outmoded, antimodern idea having achieved such success, while the two competing, overtly political theologies—both of which tended toward compromise with modernity—were relegated to history’s dustbin. Even Plato’s *Republic*, which formed one of the building blocks of Western political thought (and which I compared to *Da‘at Torah* in this essay’s introduction) has most likely never been considered a practical program (particularly since the attempt to partly implement it

<sup>97</sup> Of special note are the studies conducted by Schweid (*Democracy and Halakhah*) and Zohar (*Jewish Commitment*); see above, n. 49.

<sup>98</sup> See Asher Cohen, *The Talit and the Flag* (Jerusalem: Yad Ben Zvi, 1998) 137–54 [Hebrew].



in Syracuse ended in utter failure<sup>99</sup>). In contrast, *Da'at Torah*—what we might call a religious version of Plato's ideal form of governance—has arguably succeeded in the real world far more than have most other secular political programs. As such, *Da'at Torah* becomes an interesting case study not only on the theological and theoretical levels but also on the level of implementation, and it should therefore be of interest to sociologists and political scientists.

Today, in the beginning of the sixth stage of its development, the doctrine of *Da'at Torah* is recognized by most Haredim. Notably, the doctrine with which they are familiar is not *Da'at Torah* in the “pure” sense: under the leadership of the Great Torah Sages there developed a secondary elite, functionaries who moved the political wheels and made the important decisions, thus allowing the sages merely to suffice with laying out the general direction, often within the context of already established facts.<sup>100</sup> Furthermore, one cannot today speak of a *Da'at Torah* that encompasses *all* of the Great Torah Sages of the generation: the base of power has been dispersed, and the *Da'at Torah* (multiple opinions) of many rabbis have found acceptance. Finally, after languishing for long years, the Council of Torah Sages is now almost completely nonfunctional. To be sure, these failures are not much different than those of any abstract idea that is implemented in real-life situations. Reality can generally be counted on to be uncooperative and to force a compromise of principles and the adoption of a more pragmatic line. Nonetheless, the Orthodox governance by the Great Torah Sages has lasted close to one hundred years. In the final analysis, any compromises—however unpopular at the time—have simply been integrated into the final product, influencing it on the level of implementation—and even on the theoretical-theological level as well.

## ■ Conclusion: What Has *Da'at Torah* Contributed to Political Theology?

*Da'at Torah* is arguably one of the most aristocratic political theories in the twentieth century. Its developers and propagators, who embrace an overtly antimodernist worldview, exempt themselves from a commitment to ideas of equality and the sovereignty of the people; indeed, they even mock such ideas. Yet in the very midst of democratic societies, and on account of the shelter they provide, the Haredim seek to build “a state within a state” that poses a fundamental challenge to the basic values of those societies. In their view, leadership is not meant to please the people, but instead to direct it, to lead it down the proper path. This path, moreover, is not determined by a majority—and certainly not a majority of commoners—but by God's word: the Torah. The Great Torah Masters are imbued not only with the texts they have learnt, but also with the “Spirit of the Torah,” which enables them to “sense” the Torah's directives even in those cases on which the text itself is silent.

<sup>99</sup> The accepted opinion has since then been the one often attributed to Frederick the Great: “One who wants to destroy a country should hand it over to philosophers.”

<sup>100</sup> See Tzvi Weinman, *From Katowice to 1948* (Jerusalem: Vatikim, 1995) 66–74 [Hebrew].

*Da'at Torah* definitely shares the elitist views that contend that the masses are not capable of good decision making on complex issues that affect the nation, or even the community itself.<sup>101</sup> They would surely identify with the saying attributed to Winston Churchill, “The best argument against democracy is a five minute conversation with the average voter.”<sup>102</sup>

The fact that *Da'at Torah* has been implemented through many decades shows that it is a practicable and lasting model, at least in the limited scope in which it was employed. In addition to its success on the pragmatic level, *Da'at Torah* can apparently boast another achievement: a significant contribution to theoretical, theologico-political discourse. Because of its nonconformist nature (vis-à-vis the external, modern, majority group),<sup>103</sup> *Da'at Torah* challenges those modern liberal political theologies that have sought to adopt and harness the democratic spirit (its development of a type of “political infallibility” being the most obvious example). It has, in sum, succeeded in becoming the only Jewish political theology in the modern world to achieve practical implementation and to withstand real-world challenges through consistently dynamic development.

It is indeed worth marveling that, of the three political theologies (in the narrow sense) that sprouted from Jewish thought in the twentieth century, two developed in non-Zionist, Haredi circles—those, in other words, generally characterized by a far more conservative and restrained worldview vis-à-vis religious creativity. That such communities nevertheless proved themselves capable of producing fruitful theology, at least in a relative sense, should give us pause. While the Zionist branch of Orthodoxy, by contrast, developed political theology in the broad sense, in an attempt to grant religious significance to national rebirth and the Jewish state that it generated, perhaps surprisingly it dealt very little with the question of an appropriate system of governance for that state.<sup>104</sup> The only model that emerged from its midst (or more precisely, its margins) was the “halakhic democracy” of Rabbi Hirschensohn (and the similar model of Rabbi Federbush), which eventually rejected the halakhic component in favor of a secular model anchored in the religious concept of the covenant.<sup>105</sup>

<sup>101</sup> Compare: Robert Michels, *Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy* (New York: Dover, 1959) 89; Joseph Schumpeter, *Capitalism, Socialism, and Democracy* (London: Routledge, 2006) 262; and Joseph V. Femia, *Against the Masses: Varieties of Anti-Democratic Thought since the French Revolution* (Oxford: Oxford University Press, 2001) 137–39.

<sup>102</sup> See for example, “John Petrie’s Collection of Winston Churchill Quotes,” accessed May 23, 2014, <http://jpetrie.myweb.uga.edu/bulldog.html>. I did not find a reliable primary source for this widespread saying.

<sup>103</sup> It is superfluous to point out that, internally, the doctrine demands a broad degree of conformity.

<sup>104</sup> See, for example, Rabbi Abraham Isaac Kook, *Mishpat Cohen* (Jerusalem: The Society for the Publication of Rabbi Kook’s Works, 1937) responsum 144, 15:1.

<sup>105</sup> See the discussion above at n. 54. In modern parlance, the term “covenant” is associated with past glory and a festive spirit. In Biblical Hebrew, however, it has a technical-legal connotation: a “covenant” is a contract. From the perspective of political theology, Rabbi Hirschensohn’s concept of the “human covenant” is equivalent to the concept of “social contract,” which served as the

And yet, the phenomenon of *Da'at Torah* may not be so surprising after all, if we understand Haredi society as a kind of “counterculture,” the attraction of which lies precisely in its efforts to provide an *antithesis* to the thought of the prevailing majority culture. This recognition may arguably explain much of *Da'at Torah*’s appeal, as well as the dynamism that has enabled it to adapt to new circumstances. And so we return to the point from which we began: *Da'at Torah* not only contributes substantive content to the literature on political theology in the twentieth century, but also makes a methodological contribution to the scholarship on theology itself. Precisely on account of its unsystematic nature and its often weak theological formulation, it provides an occasion for the reevaluation of the definition of theology, in particular the recognition that even an “indeliberate theology” should rightly come under that heading. As such, *Da'at Torah* can also shed light on additional Haredi ideas, as well as others outside of the Orthodox Jewish world. In sum, the definition of *Da'at Torah* as a political theology is not merely a semantic categorization, but an instrument for better understanding the concept of political theology altogether. These factors give *Da'at Torah* the power to participate in the universal discourse on political theology that has developed in recent decades.

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foundation of the modern doctrine of the state, beginning in the seventeenth cent. In other words, the most basic infrastructure, both in time and in essence, of the existence of the Jewish nation was its secular infrastructure, and this infrastructure is also the infrastructure of the political body that it establishes. The foundation of the state, according to the model of Hirschensohn’s halakhic democratic state, is thus also secular and lacking in innovation. Furthermore, it also suffers from a theoretical failure: If the infrastructure of the Divine covenant is the human covenant, then it cannot undermine the foundation on which it is built. Thus, there is no justification for the deviations from modern democracy that Hirschensohn proposes, or at least they cannot be justified by reliance on halakhic sources, as he proposes. If we try to extricate Rabbi Hirschensohn from his failure, we are left with regular secular democracy, and his proposal lacks a message. In other words, if we take Rabbi Hirschensohn’s theoretical arguments to their final conclusion, we find that we are left with a political theology that tries to justify a secular political governance, such as regular Western democracy.



# Godforsakenness as the End of Prophecy: A Proposal from Schleiermacher's *Glaubenslehre*\*

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The rationalist Johann Friedrich Röhr makes a passing but telling comment in his 1823 review of Schleiermacher's then recently published *Glaubenslehre*,<sup>1</sup> when moving on from the doctrines of redemption and reconciliation: "We can pass over the explanation of the ecclesial doctrine of the prophetic, high priestly, and kingly office of Christ. More important is the doctrine of justification."<sup>2</sup> Röhr's disinterest has, in large part, been retained by more recent theological considerations

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<sup>1</sup> For an edition of the *Glaubenslehre* see Friedrich Schleiermacher, *Der christliche Glaube nach den Grundsätzen der evangelischen Kirche im Zusammenhange dargestellt* (ed. Herman Pieter; 1st ed., 1821–1822; KGA 1/7.1–2; repr., Berlin: De Gruyter, 1980; henceforth CG<sup>1</sup>); *Der christliche Glaube nach den Grundsätzen der evangelischen Kirche im Zusammenhange dargestellt* (ed. Rolf Schäfer; 2nd ed., 1830–1831; KGA 1/13.1–2; repr., Berlin: De Gruyter, 2003; henceforth CG<sup>2</sup>); *ET The Christian Faith* (trans. H. R. Mackintosh and J. S. Stewart; Edinburgh: T&T Clark, 1956). I will use Mackintosh and Stewart's English translation (of the 1830–1831 edition), citing: CG<sup>2</sup> section number, Mackintosh and Stewart page. When it is relevant I will include the German original in brackets, from CG<sup>2</sup>.

<sup>2</sup> Johann Friedrich Röhr, "Besprechung Schleiermachers *Glaubenslehre*," *Kritische Prediger-Bibliothek* 4 (1823) 371–94, 555–79, reprinted in Friedrich Schleiermacher, *Marginalien und Anhang* (ed. Hayo Gerdes and Hermann Peiter; *Kritische Gesamtausgabe* [henceforth KGA] 1/7.3; Berlin: De Gruyter, 1983) 505–33, at 528. The translation is mine, here and in all instances where only a German source is cited. Note also Schleiermacher's comment to his friend Joachim Christian Gass about Röhr's review: "My colleague Röhr has expressed himself about my dogmatics in his *Prediger Zeitung*, but I have learned nothing from his criticisms" (Friedrich Schleiermacher, *On the "Glaubenslehre": Two Letters to Dr. Lücke* [trans. James Duke and Francis Fiorenza; AAR Texts and Translations 3; Atlanta: Scholars Press, 1981] 124).

of Schleiermacher. Despite ample recognition of the fact that Schleiermacher rejuvenated the doctrine of Christ's threefold office after a period of general neglect, extended reflection upon the actual implications of Schleiermacher's understanding of Christ as prophet, priest, and king for the rest of his system, and his doctrine of redemption in particular, has been lacking. In both editions of the *Glaubenslehre*, however, four complete sections are devoted to the threefold office, which with two preceding sections on the redeeming and reconciling activity of Christ make up Schleiermacher's doctrinal heading "Of the Work of Christ" within his division on Christology.<sup>3</sup>

A half century later and in contrast to Röhr, Albrecht Ritschl recognized the interrelated nature of the threefold office and redemption in Schleiermacher's *Glaubenslehre*, and offered a criticism that will helpfully frame the current study. Ritschl argues that while Schleiermacher attempts to make new use of Christ's priestly office, he is unsuccessful because operating under the "schema of Christ's high-priestly work" requires certain commitments to concepts of divine justice exemplary of the "old school"—exactly those that Schleiermacher intends to reject. Ritschl concludes, "Now, to reject this idea was not enough; it required to be superseded by another. That a blank [Lücke] was left instead, has led to the result that Schleiermacher's elucidations glide from the schema of the priestly office into those of the prophetic and of the kingly. The dialectic which makes this possible is not masterly."<sup>4</sup> It is my contention that while Schleiermacher may have merely filled in "a blank [that] was left," an account of the redeeming work of Christ under the schema of his non-priestly offices need not simply be this, and in fact can follow quite naturally from the *Glaubenslehre*.

There are numerous theological projects by which one might propose to improve upon the weaknesses of Schleiermacher's doctrine of the Redeemer as identified by Ritschl. Here I intend to pursue only one such project, focusing on the moment in Christ's redeeming work when certain Gospel accounts imply that he was forsaken by God on the cross. In particular, I will incorporate the *Glaubenslehre*'s account of the threefold office of Christ into a new reading of the cry of dereliction by explaining Christ's godforsakenness as the end of the prophetic office of Christ.<sup>5</sup> This interpretation will require a revision of Schleiermacher's account of Christ's abandonment by God, though it will remain faithful to the broader purposes of Schleiermacher's doctrine of the person and work of the Redeemer. My proposal is constructive rather than merely exegetical—it goes beyond what Schleiermacher

<sup>3</sup> CG<sup>2</sup> §§100–105; *Christian Faith*, 425–75.

<sup>4</sup> Albrecht Ritschl, *A Critical History of the Christian Doctrine of Justification and Reconciliation* (trans. John Black; Edinburgh: Edmonston and Douglas, 1872) 485.

<sup>5</sup> This sort of proposal has some precedent: Isaak Dörner hints at a similar development of Schleiermacher's thought in line with the office of kingship (*History of the Development of the Doctrine of the Person of Christ* [trans. William Lindsay Alexander and D. W. Simon; 5 vols. bound in 2 divisions as 3 vols.; Clark's Foreign Theological Library Series 3 10–11, 14–15, 18; Edinburgh: T&T Clark, 1861–1884]) div. 2 vol. 3:203–5).

actually affirms explicitly in his *Glaubenslehre*. Throughout the essay, it will become clear that in certain instances (mostly with regard to Christ's prophetic office) my proposal builds upon and opens new possibilities for Schleiermacher's thought, while in other instances (mostly with regard to Christ's cry of dereliction) my proposal is a departure from Schleiermacher and offers a significant corrective for his *Glaubenslehre*. The development of my proposal, however, relies entirely on the *Glaubenslehre* and Schleiermacher's other writings.

This approach to a doctrinal account of the godforsakenness of Christ is substantially different from most current treatments, which are primarily concerned with the problem of division within the Godhead presented by a separation of the Father from the Son.<sup>6</sup> In contrast to the current Trinitarian focus, Schleiermacher's problem is always one of christological psychology. The theological relevance of a revision of Schleiermacher's position, then, is wider in scope than simply a contribution to Schleiermacher research. By offering a novel approach to Christ's godforsakenness as the end of the prophetic office of Christ, this proposal has the potential to open up a dialogue that has thus far remained within the confines of the recent revival of Trinitarian doctrine.

## ■ Schleiermacher on the Godforsakenness of Christ

Schleiermacher steadfastly rejects any abandonment of Jesus by God as contradictory to the unique dignity of the Redeemer, and he is especially concerned to offer an adequate alternative interpretation for the cry of dereliction in light of this commitment. Schleiermacher's explicit conclusions on the event of dereliction, then, present an immediate obstacle to my proposal. In the following section I will discuss his account in the *Glaubenslehre* and other writings, reserving my own constructive proposal for later.

<sup>6</sup> Much of the recent discussion on Christ's forsakenness has followed the work of Hans Urs von Balthasar's *Mysterium Paschale* (for an edition see *Mysterium Paschale: The Mystery of Easter* [trans. Aidan Nichols; Edinburgh: T&T Clark, 1990]) and Jürgen Moltmann's *The Crucified God* (for an edition see *The Crucified God: The Cross of Christ as the Foundation and Criticism of Christian Theology* [trans. R. A. Wilson and John Bowden; New York: Harper & Row: 1974]), and is primarily concerned with how to reconcile (or whether to reject) divine immutability with the suffering of the Son, as well as how to account for the unity of Father and Son in the event of the cross. A good place to begin in the secondary literature is Bruce Marshall's essay "The Dereliction of Christ and the Impassibility of God," in *Divine Impassibility and the Mystery of Human Suffering* (ed. James Keating and Thomas Joseph White; Grand Rapids, Mich.: Eerdmans, 2009) 246–98; Marshall discusses the modern issue at length and with reference to Cyril of Alexandria and Thomas Aquinas. See also John Yocum, "A Cry of Dereliction? Reconsidering a Recent Theological Commonplace," *International Journal of Systematic Theology* 7 (2005) 72–80; Eleonore Stump, "Atonement and the Cry of Dereliction from the Cross," *European Journal for Philosophy of Religion* 4 (2012) 1–17; and Henry Novello, "Jesus' Cry of Lament: Towards a True Apophaticism," *ITQ* 78 (2013) 38–60. Novello's essay is distinguished by a more extensive consideration of the place of lament in Judaism and the implications of Christ's forsakenness for practical theology.



In the 1830–1831 *Glaubenslehre*, Schleiermacher's mature account of the cry of dereliction, recounted in Matt 27:46 and Mark 15:34, is presented within a discussion of the passive obedience of Christ:

But this misunderstanding [that Christ's suffering was punishment] only reaches its height in the view that the suffering of Christ is a transference of punishment in the still more exact sense that God (who nevertheless, according to the doctrine of the Church itself, is not in general the Author of punishment) appointed His suffering for the Redeemer as punishment, so that Christ is supposed to have felt the primary and most direct punishment of sin, namely, the divine wrath, as striking Him and resting upon Him. This theory, on the one hand, deprives the human consciousness of Christ of all human truth, by regarding as His personal self-consciousness what from the nature of the case could in Him be only sympathy. And, on the other hand, it is obviously based on the assumption that there is an absolute necessity in the divine punishment, without any regard to the natural connexion of punishment with moral evil.<sup>7</sup>

In a footnote appended to this passage, Schleiermacher makes an abbreviated reference to a proposed solution for the difficulty of the cry of dereliction.<sup>8</sup> A more extensive treatment is offered in his 1832 *Leben Jesu* lectures:

I believe that it is improbable that Christ fell back into a state of mental distress. Christ's word on the cross, 'My God, my God, why hast thou forsaken me?' has a bearing on this. I cannot think of this saying as an expression of Christ's self-consciousness. I can think of no movement when the relationship between God and Christ could have changed. It must always have been the same. Christ's oneness with the Father can never have been ended, but that seems to be what such a saying indicates. Some claim that such a state of abandonment by God was a necessary part of the plan of redemption. I admit gladly that I do not believe that. It contains an untruth, for if such a one had been abandoned by God he would have to be an untruth. He was an object of divine favor and must always have been that. Therefore his cry of dereliction must have been a self-deception or untruth. A theologian in Zurich, the saintly Hess, has also said that, and he is not one whom anyone can accuse of rationalism. When we recall that the saying is the first part of a psalm in which a number of circumstances are referred to as descriptions of a state of suffering which literally was reproduced in Christ's experience, it is natural that he cited this state (or: cry) as a beginning of this description. He did not isolate it as a description of his situation, but as a referring of those who could hear him to *the entire psalm*.<sup>9</sup>

<sup>7</sup> CG<sup>2</sup> §104.4; *Christian Faith*, 460.

<sup>8</sup> "It has given me much pleasure to read that the late J. J. Hess, too, could not bring himself to regard the passage Matt 27:46 as a description by Christ of His own state of misery [unseligen Zustände], but only as the first words of the Psalm, quoted with reference to what follows" (ibid.).

<sup>9</sup> Friedrich Schleiermacher, *The Life of Jesus* (trans. S. Maclean Gilmour; Lives of Jesus; Philadelphia: Fortress, 1975) 423 [emphasis is the translator's]. (For the original see *Das Leben Jesu. Vorlesungen an der Universität zu Berlin im Jahr 1832* [Berlin: Reimer, 1864].)

*Leben Jesu* parallels the *Glaubenslehre* in several respects. In both works, Schleiermacher is concerned that suffering/abandonment is being construed as “necessary” for redemption. There is the argument that for a Redeemer who is defined by his perfect God-consciousness, to lose such vital connection with God would be to make his identity as Redeemer an “untruth.” There is also a positive evaluation of Johann Jakob Hess,<sup>10</sup> who argues that the cry of dereliction should be understood as a shorthand reference to Psalm 22 in its entirety, which does not dwell on suffering but rather upon the provision of God.<sup>11</sup> The explanation of the cry of dereliction as shorthand for Psalm 22 first appears in the 1830–1831 *Glaubenslehre*,<sup>12</sup> and can also be found in the 1833 sermon “On the Redeemer’s State of Mind in His Final Hours.”<sup>13</sup> The reinforcement of Schleiermacher’s claims about the suffering of Christ by such a hermeneutical argument follows upon critiques charging that the 1821–1822 *Glaubenslehre* privileges an ideal Christ over the historical Jesus. Schleiermacher opposes the idea that Christ suffered abandonment on the cross, but needs to offer a more substantial textual explanation of his own view if it is to remain a plausible alternative theory of the cry of dereliction.<sup>14</sup>

<sup>10</sup> Schleiermacher likely discovered Hess’s *Geschichte der drei letzten Lebensjahre Jesu* during the 1820s. A new edition was published in 1822–1823, and Hess died in 1828—two occasions upon which Schleiermacher could plausibly have become familiarized with the work between the 1st and 2nd editions of the *Glaubenslehre*. Schleiermacher’s copy was the 4th edition, from 1774 (Jakob Hess, *Geschichte der drey letzten Lebensjahre Jesu* [Zurich: Bey Orell, Gessner, Fuesslin, and Compagnie, 1774]; see *Schleiermachers Bibliothek* [ed. Lars Emersleben; KGA 1/15; Berlin: De Gruyter, 2005] 709). See also Friedhelm Ackva, *Johann Jakob Heß (1741–1828) und seine biblische Geschichte* (New York: Peter Lang, 1992).

<sup>11</sup> Dawn DeVries gives a concise description of this opinion (see *Jesus Christ in the Preaching of Calvin and Schleiermacher* [Columbia Series in Reformed Theology; Louisville: Westminster John Knox, 1996] 88), as does Emanuel Hirsch (see *Schleiermachers Christusglauben* [Gütersloh: Gütersloher Verlagshaus, 1968] 86–87). Karl Barth, however, offers the most extensive account of Schleiermacher’s changing thought on this passage and examines the evolution of his homiletic treatments of it in greater depth (see *The Theology of Schleiermacher* [trans. Geoffrey Bromiley; Grand Rapids, Mich.: Eerdmans, 1982] 80–85).

<sup>12</sup> In the first edition (CG<sup>1</sup> §125.4; *Christian Faith*, 93–94), Schleiermacher’s broader argument is virtually the same, only without the exegetical reference to Hess and Psalm 22. For comments on the revision of §123/§102 concerning the *munus triplex*, see Hayo Gerdes, “Anmerkungen zur Christologie der Glaubenslehre Schleiermachers,” *Neue Zeitschrift für systematische Theologie und Religionsphilosophie* 25 (1983) 112–25, at 118–19.

<sup>13</sup> “Even as the Redeemer pronounced these opening words of the Twenty-second Psalm, the entire holy song was indisputably present in his soul, although only this extent of it could be heard aloud because of his increasing physical weakness [körperlicher Schwäche]” (Friedrich Schleiermacher, *Sämmtliche Werke* [30 vols.; Berlin: Reimer, 1834–1864] 2.2:404). In the *Leben Jesu* lectures, however, Schleiermacher rejects this explanation of the Redeemer’s silence: “To be sure, once Christ had been crucified he spoke very little, but that cannot be regarded as the result of a weakened life force [geschwächter Lebenskraft]. On the contrary, Christ’s relative silence was due to the fact that he was awaiting death and to the fact that he was exposed to public view” (Schleiermacher, *Life of Jesus*, 419).

<sup>14</sup> Schleiermacher, *On the “Glaubenslehre”*, 71–72. Hess’s view is presented as corroboration

Schleiermacher's rejection of previous interpretations of the cry of dereliction is predicated upon two prior commitments: 1) his opposition to a vicarious substitution whereby Christ suffers the punishment of sinners and 2) his opposition to any break in the perfect God-consciousness of Christ. According to Schleiermacher, if Christ were set at odds with God either through a loss of consciousness or through active—even if redemptive—vicarious punishment for sin, his status as Redeemer would be compromised. As a result, Schleiermacher can find no positive content for a doctrine of the suffering of Christ. He adequately explains away the difficulty of the situation, though without the event contributing to his system in any way. It is “superfluous” (*überflüssig*), to borrow Schleiermacher's terminology from elsewhere.<sup>15</sup>

Yet while Schleiermacher elsewhere sets many traditions of piety and poetic descriptions aside as indifferent to dogmatic theology, the suffering of Christ does not appear to be treated in this way. In an earlier discussion of superstitions about outstanding physical attributes of the Redeemer, Schleiermacher states,

Mortality and the capacity for physical suffering are so closely connected that such a natural immortality in Christ would make the capacity of human nature in His Person for suffering a mere empty phrase, and no great worth could be attached to His physical sufferings without self-contradiction.<sup>16</sup>

The implication is that Christ's suffering is not simply an empty phrase, that it does bear great worth, and for this reason it cannot be self-contradictory. In §104.4 Schleiermacher has only explained why the cry of dereliction is not self-

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that is above such reproach, because Hess “is not one whom anyone can accuse of rationalism.” Nonetheless, in his response to the *Leben Jesu* Strauss continues to dismiss the argument on precisely the former lines of the 1821–1822 *Glaubenslehre*: “The explanation that the words are to be understood only as part of the entire psalm (Psalm 22), which concludes with a most joyous affirmation, is common to Schleiermacher and to the older, partially or completely rationalistic theologians” (David Friedrich Strauss, *The Christ of Faith and the Jesus of History* [trans. Leander Keck; Lives of Jesus; Philadelphia: Fortress, 1977] 124). Albert Schweitzer categorizes Hess as a part of the early rationalism of historical Jesus research, which still preserved some supernaturalist elements (see *The Quest of the Historical Jesus* [ed. John Bowden; Fortress Classics in Biblical Studies; Philadelphia: Fortress, 2001] 28–30).

<sup>15</sup> Schleiermacher explains the effect of superfluity when discussing Scripture as a sufficient norm for faith (and thus not containing anything superfluous): “What is superfluous is confusing and hence of no more than negative value; also it tempts the mind into comparisons that lead nowhere” (*CG*<sup>2</sup> § 131.3; *Christian Faith*, 607). One might object that Christ's “sympathy with sin” (*Mitgefühl der Sünde*; see, e.g., *CG*<sup>2</sup> § 104.1; *Christian Faith*, 452) offers a positive content for suffering, but Schleiermacher clarifies that this suffering is vicarious without making satisfaction, and that such vicarious suffering is always also present in the wider community rather than unique to the work of the Redeemer (*CG*<sup>2</sup> § 104.3; *Christian Faith*, 461). While he takes this aspect of the Redeemer's suffering to be positive content, then, Schleiermacher does not seem to grant it particular redemptive significance. It does, however, play an important role in my proposal, where I will argue that the vicarious nature of sympathy with sin opens up the possibility of a feeling of godforsakenness.

<sup>16</sup> *CG*<sup>2</sup> §98.1; *Christian Faith*, 416.



contradictory. It is less clear that his account explains its great worth or how it could be more than simply an empty phrase.

In order to suggest how such an explanation might work, I will propose an account of the cry of dereliction that makes a positive contribution to the doctrine of redemption while attempting to work within Schleiermacher's framework to the greatest possible extent. In order to achieve these goals, I will resituate the account of the cry of dereliction within the prophetic office of Christ (§103) rather than Schleiermacher's placement of it within the priestly office (§104), and I will appeal to Schleiermacher's actualism<sup>17</sup> in order to establish a christological basis for Christ's own godforsakenness on the cross.

Like Schleiermacher, my proposal will be theological and biographical in form. This categorization is important and requires some explanation before moving forward because of the historical-critical questions involved in the use of Passion Narratives as christological sources.<sup>18</sup> If current scholarly consensus does not take the episode of the cry of dereliction to be a reliable account of the execution of the historical Jesus, then is any theological rehabilitation of the godforsakenness of Christ thus rendered passé? If Schleiermacher's naïve understanding of Gospel

<sup>17</sup> By "actualism" I mean a focus on Christ's activity as what constitutes the essential divine identity in him. One of many quotable summaries of Schleiermacher's christological actualism describes it in this way: "The existence of God in the Redeemer is posited as the innermost fundamental power within Him, from which every activity proceeds and which holds every element together" (*CG*² § 96.3; *Christian Faith*, 397). For a recent application of this terminology as it relates to Schleiermacher's Christology, see Kevin Hector, "Actualism and Incarnation: The High Christology of Friedrich Schleiermacher," *International Journal of Systematic Theology* 8 (2006) 307–22.

<sup>18</sup> The Markan employment of Psalm 22 for the Passion Narrative is generally recognized as a literary structure central to the development of the early Christian doctrine of the Messiah, allowing Schleiermacher's reading, which focuses on literary coherence as the basis for a theological account of the experience of Jesus, to harmonize well with current New Testament scholarship. Donald Juel's *Messianic Exegesis* is an important study for recent literature considering the theological import of Old Testament quotations in the christological development of the early church (Donald Juel, *Messianic Exegesis: Christological Interpretation of the Old Testament in Early Christianity* [Philadelphia: Fortress, 1988] esp. 114–17). For some recent studies on the use of Psalm 22 in Mark's Passion Narrative, see the following: Esther Menn discusses the attribution of the originally generic lament psalm to great historical characters such as David, Esther, and Jesus in "No Ordinary Lament: Relecture and the Identity of the Distressed in Psalm 22," *HTR* 93 (2000) 301–41, at 327–35; Matthew Rindge considers the reference as a key to understanding the Markan doctrine of God in "Reconfiguring the Akedah and Recasting God: Lament and Divine Abandonment in Mark," *JBL* 130 (2011) 755–74; Stephen P. Ahearne-Kroll considers the use of psalms of lament in Mark's gospel and draws important distinctions between Jesus and David, as well as between Mark's portrayal and the later Suffering Servant motif, in *The Psalms of Lament in Mark's Passion: Jesus' Davidic Suffering* (SNTSMS; Cambridge, U.K.: Cambridge University Press, 2007); and William Sanger Campbell offers a valuable argument for the cry of dereliction as being the culmination of an "abandonment Christology" that runs throughout the Gospel of Mark in "'Why Did You Abandon Me?' Abandonment Christology in Mark's Gospel," in *The Trial and Death of Jesus: Essays on the Passion Narrative in Mark* (ed. Geert van Oyen and Tom Shepherd; CBET 45; Louvain: Peeters, 2006) 99–117. The main textual concern for these studies is the doctrinal or literary importance of using Psalm 22 to present the identity of Jesus in a way that is biographically coherent and relevant to theological concept formation.

textual criticism is no longer tenable, it would seem that any new proposal remaining within Schleiermacher's original framework would share the same fate.

There is certainly much in Schleiermacher's exegetical and text-critical work that has been left behind by modern biblical studies, but his outdated opinions—even concerning the Synoptic Gospels—are not related to the Passion Narrative in such a way that would render his theology or my revisionist proposal obsolete. It is not actually clear what Schleiermacher thinks of the historical reliability of the cry-of-dereliction narrative; he does use theological arguments to reject the godforsakenness that is often inferred from this narrative, but does not comment upon its historicity. Elsewhere, Schleiermacher argues that although Mark was written with the intention of appearing as an eyewitness, he clearly was not one based upon the stylized nature of the writing; this sets Schleiermacher in agreement with current scholarship.<sup>19</sup> Schleiermacher's views on source criticism roughly follow Griesbach, and Schleiermacher was instrumental in the early work on proto-Gospel writings.<sup>20</sup> Heinrich Saunier even dedicated his 1825 *Ueber die Quellen des Evangeliums des Marcus* to Schleiermacher, who was his teacher. Schleiermacher did not come to the Gospel narratives uncritically, then. Yet he still claims to offer biographical accounts, uses the Gospel of John extensively for his Christology, and feels a theological need to wrestle with canonical narratives that he does not always take to be historically reliable. How can such theological structures be plausibly employed today, when biblical scholarship rejects what Schleiermacher seems to have taken for granted?

What can often come across as credulity or lack of sophistication in Schleiermacher's biblical criticism is actually the result of hermeneutical commitments concerning the place of scriptural canon in the work of theology, the implications of historicity for the religious significance of various events, and the disciplinary distinctions between biblical, pastoral, and dogmatic theology. The result may be a dogmatics deemed passé from the perspective of historical Jesus scholars or biblical literalists, but such an assessment would fail to recognize what Schleiermacher is doing as a biblical scholar and a theologian. Christine Helmer has helpfully identified the central issue as one of theological concept formation that schematizes reality as presented in the New Testament witness.<sup>21</sup>

<sup>19</sup> See Friedrich Schleiermacher, *Vorlesungen zur Hermeneutik und Kritik* (ed. Wolfgang Virmond and Hermann Patsch; KGA 2/4; Berlin: De Gruyter, 2012) 973.

<sup>20</sup> See Friedrich Schleiermacher, "Über die Zeugnisse des Papias von unsern beiden ersten Evangelien," in *Exegetische Schriften* (ed. Hermann Patsch and Dirk Schmid; KGA 1/8; Berlin: De Gruyter, 2001) 227–54. See also Johann Jakob Griesbach's *Commentatio qua Marci Evangelium totum e Matthaei et Lucae commentariis decerptum esse monstratur*, which is reprinted with an English translation in *J. J. Griesbach: Synoptical and Text-critical Studies, 1776–1976* (ed. Bernard Orchard and Thomas W. Longstaff; trans. Bernard Orchard; Cambridge, U.K.: Cambridge University Press, 1978) 68–135.

<sup>21</sup> Christine Helmer, "Recovering the Real: A Case Study of Schleiermacher's Theology," in *The Multivalence of Biblical Texts and Theological Meanings* (ed. Christine Helmer; SBL Symposium Series 37; Leiden: Brill, 2006) 161–76, at 171.

For Schleiermacher, the scriptural witness to the life and work of Jesus of Nazareth is thus more complicated than merely reporting historical facts:

By virtue of Schleiermacher's own claims concerning the identity of influence emanating from Christ's postmortem and antemortem presence, literary coherence can be applied as a criterion to any expression of experience of Jesus. The systematic coherence of a doctrinal system, in fact, reflects precisely the relation of systematic coherence to contemporary personal conviction regarding the transformative effect of Jesus. What Schleiermacher means by historical proximity to Jesus is the immediacy of Jesus' presence to every age.<sup>22</sup>

This evokes a theory of religious experience and faith that is more widely known through Kierkegaard's rejection of the "follower at secondhand,"<sup>23</sup> but it is just as present in Schleiermacher (albeit with a different mode of communal transmission, explanation of which would be beyond the scope of this essay); the historical proximity of the Gospels to Jesus of Nazareth is less relevant for theological reflection than is the influence of Jesus upon the representation of his life and work in the scriptural witness. The doctrinal account of the cry of dereliction as presented in Mark or Matthew thus depends on an affirmation of a divine influence upon the community of believers (including both the Gospel writers and the modern theologian), but not any claims of historiographical access to the historical Jesus. Schleiermacher, like much current scholarly work on the use of the psalms by New Testament authors, is primarily concerned with the use and effectiveness of literary structures for the presentation of a coherent account of Jesus as Messiah / king of the Jews,<sup>24</sup> lamenting sufferer,<sup>25</sup> or Redeemer.<sup>26</sup>

## ■ Schleiermacher on the Prophetic Office of Christ

Schleiermacher rejuvenates the *munus triplex* schema for Christology in §§102–105 of the *Glaubenslehre* (CG<sup>1</sup> §§123–126), although in doing so he also perpetuates some of the characteristic weaknesses of the model as it has been traditionally executed. Chief among these weaknesses is the relatively small role that the prophetic office plays in Christology, and particularly for the doctrine of redemption. At the same time, Schleiermacher's discussion of Christ as prophet offers the groundwork for a more substantial account of the person and work of the Redeemer.

<sup>22</sup> Ibid., 165–66.

<sup>23</sup> Søren Kierkegaard, *Philosophical Fragments* (ed. and trans. Howard V. Hong and Edna H. Hong; Princeton: Princeton University Press, 1985) 89–110.

<sup>24</sup> See Juel, *Messianic Exegesis*, 114–17.

<sup>25</sup> See Menn, "No Ordinary Lament," 327–35; Ahearne-Kroll, *Psalms of Lament*, 197–212.

<sup>26</sup> Schleiermacher considers the redemptive work of Christ in CG<sup>2</sup> §§100–101; *Christian Faith* 425–38. For a recent account of Schleiermacher's doctrine of Scripture as it relates to the redemptive work of Christ, see Paul Nimmo, "Schleiermacher on Scripture and the Work of Jesus Christ," *Modern Theology* (2013) doi: 10.1111/moth.12080. While Nimmo's article was published too late to incorporate into this essay, it will be an important reference for future research.



Though Calvin's *Institutes* by 1559 included an account of the prophetic office of Christ, and Calvin insists "his anointings as prophet and as priest have their place and must not be overlooked by us,"<sup>27</sup> the primary basis of Christ's messianic identity is taken to be his kingship. The priestly office pertains most clearly to Christ's redemptive activities of reconciliation and intercession. Significantly, however, Calvin does present Christ as the "end of prophecy" in a way that readers of Schleiermacher will find anticipatory: "The perfect doctrine he has brought has made an end to all prophecies. All those, then, who, not content with the gospel, patch it with something extraneous to it, detract from Christ's authority."<sup>28</sup> J. F. Jansen's classic study on Calvin's Christology notes this deficiency concerning the prophetic office, and more recently Stephen Edmondson has attempted to build upon Jansen's analysis in order to make sense of the prophetic office as it relates to redemption. Edmondson claims, "Christ's prophetic office, then, in relation to this revelation is not to give the revelation but to explain it. Christ is to make plain who he is and what he has done among us so that we might see, understand, and be grasped by the love of God evident in his history. Christ is the interpreter of God's revelation."<sup>29</sup>

This formulation is more than simply appropriate for Schleiermacher's *Glaubenslehre*. Insofar as the basis of Christ's redemptive work is the assumption of believers into the God-consciousness (*CG*<sup>2</sup> §100) of which he stands as the ideal (*CG*<sup>2</sup> §93), the redemptive significance of the prophetic office arguably becomes more prominent than the royal or sacerdotal office since its purposes are better fitted to the communication of an ideal in experience. Concerning the feeling of absolute dependence, Schleiermacher claims, "Everyone will know that it was first awakened in him in the same way, by the communicative and stimulative power of expression or utterance."<sup>30</sup> Likewise Schleiermacher discusses redemption primarily under the auspices of the priesthood of Christ,<sup>31</sup> but this may be because he is so preoccupied with critiquing atonement by vicarious substitution. That is, his negative argument concerning the history of doctrine forces him to linger within the confines of the priestly office of Christ where traditional atonement theories have been most applied, though a further positive development of the doctrine of redemption as I have here proposed may be more productively taken up elsewhere. For Schleiermacher, the obvious candidate appears to be the prophetic office because of its communicative nature. The assumption of Christ's God-consciousness in the church would presumably occur along such lines in order to avoid the depiction

<sup>27</sup> John Calvin, *Institutes of the Christian Religion* (ed. John T. McNeill; trans. Ford Lewis Battles; 2 vols.; LCC 10–11; Philadelphia: Westminster, 1960) 2.15.2, 496.

<sup>28</sup> Ibid. See also *CG*<sup>2</sup> §93.5; *Christian Faith*, 384–85 and *CG*<sup>2</sup> §103.3; *Christian Faith*, 447.

<sup>29</sup> Stephen Edmondson, *Calvin's Christology* (Cambridge, U.K.: Cambridge University Press, 2004) 160–67, at 162. Edmondson is responding to J. F. Jansen, *Calvin's Doctrine of the Work of Christ* (London: James Clark, 1956).

<sup>30</sup> *CG*<sup>2</sup> §6.2; *Christian Faith*, 27.

<sup>31</sup> *CG*<sup>2</sup> §104; *Christian Faith*, 451–66.

of redemption as a magical transaction. What, then, would an account of the redemptive significance of the cry of dereliction as an event of Christ's prophetic activity look like?

Schleiermacher associates the prophetic activity of Christ with his teaching, and while he discourages the practice of taking Jesus's public ministry as beginning with his baptism or supposing his baptism marks a significant change in his prophetic office, he does acknowledge that John's baptism "helps us to understand His public appearance historically: He marked His more open transition from seclusion to public life by an act of confession which inevitably evoked a more definite opinion about Him, to which He was able to attach His teaching."<sup>32</sup> The prophetic activity of Christ during his public ministry served to draw sinners toward fellowship with him, and preparation for such a union was necessarily marked by a consciousness of sin. For this reason, Schleiermacher makes the prophetic office a part of the redemptive activity of Christ.<sup>33</sup> The experience of faith in redemption disallows demonstration of necessity or proof in the work of Christ. Rather, "Our purpose is simply to show that the perfect satisfaction to which we aspire can only be truly contained in the Christian's consciousness of his relation to Christ in so far as that consciousness expresses the kind of relation which has been described here."<sup>34</sup> This resistance to proof in Christ's prophetic ministry expands upon the main thesis of §14: "There is no other way of obtaining participation in the Christian communion than through faith in Jesus as the Redeemer."<sup>35</sup>

As Redeemer, Christ acted in a perfect receptive fashion to the pure activity of God and actualized the divine essence in himself. Schleiermacher takes this basis of the work of the Redeemer in his personal union with God as the effective element in the Redeemer's own fellowship with humanity:

If every activity of the Redeemer proceeds from the being of God in Him, and if in the formation of the Redeemer's Person the only active power was the creative divine activity which established itself as the being of God in Him, then also His every activity may be regarded as a continuation of that person-forming divine influence upon human nature.<sup>36</sup>

<sup>32</sup> CG<sup>2</sup> §103.2; *Christian Faith*, 443.

<sup>33</sup> CG<sup>2</sup> §100.2; *Christian Faith*, 426–28. See also CG<sup>2</sup> §104.3; *Christian Faith*, 455: "Thus we are also enabled to distinguish the prophetic value of Christ's obedience from the high-priestly. To the prophetic office of Christ belongs everything which is proclamation, and so self-presentation as well, not in words only, but also in deed. This, however, is addressed to men in view of their opposition to Christ, in order to make them susceptible of union with Him. Hence the obedience of Christ in this aspect of it is held up even for all who are in the Church, and bears on the distinction between Christ and them which still persists."

<sup>34</sup> CG<sup>2</sup> §100.2; *Christian Faith*, 428.

<sup>35</sup> *Christian Faith*, 68. See also CG<sup>2</sup> §14.3 and postscript; *Christian Faith*, 70, 73–75.

<sup>36</sup> CG<sup>2</sup> §100.2; *Christian Faith*, 427.

What is imparted to human fellowship is the being of God in Christ, actualized in prophecy (understood here as teaching in word and deed, rather than as mere predictions). The Redeemer was the climax of all prophecy because of the unsurpassable presence of God in him. The prophetic activity of Christ was continuous and always a complete representation of his person, which in turn fully imparted the being of God in him:

Like the teaching of the prophets, His too was always the direct utterance of His whole being, hence not to be separated from the total impression His being made. And from this it follows for His teaching, that (since His inspiration was not transient but constant) every utterance of His moved spirit in speech and accompanying expression contains elements of teaching, and serves as confirmation of His teaching proper, inasmuch as it bears witness to the being of God in Him.<sup>37</sup>

In addition to his identity as the climax of all prophecy, Christ was the end of all prophecy. Schleiermacher uses this christological identifier in the same sense that Calvin does in *Institutes* 2.15; no greater truth would follow that would carry humanity beyond the revelation of God in Christ. The first discussion of prophecy in §14, postscript, hints at such an end in Christ, but does so in less clarified language because here only “the prophecies of the Jewish prophets regarding Christ” are considered: “They disclose to us a striving of human nature towards Christianity, and at the same time give it as the confession of the best and most inspired of earlier religious communions, that they are to be regarded only as preparatory and transitory institutions.”<sup>38</sup> The end of prophecy is elaborated in §103.3, and recalled in §157.2 as the reason for our lack of knowledge of the future consummation of the church.<sup>39</sup> Schleiermacher also associates the fulfillment of the Redeemer’s work with a clarifying of previous prophecy.<sup>40</sup> These descriptions establish Christ as a revelatory endpoint, although more can be said about the redemptive efficacy of the prophetic work of Christ.

<sup>37</sup> CG<sup>2</sup> §103.2; *Christian Faith*, 446.

<sup>38</sup> CG<sup>2</sup> §14, postscript; *Christian Faith*, 74–75.

<sup>39</sup> “He is the end of all prophecy, because no new teaching can arise which, after His, would not be false; that is to say, from now on all true teaching in this sphere goes back, not to Moses and the law, but to the Son. He is also the end of prophecy for this reason, that now there can be no such thing as an independent personal inspiration, but only a being inspired by him” (CG<sup>2</sup> §103.3; *Christian Faith*, 445–46); “we have recognized Christ as the end of prophecy; which implies that even the Church does not acknowledge any gift of the Spirit enabling her to form a prophetic picture of a future on which (since it lies altogether beyond human experience) our action can exert no influence whatever; indeed, in the absence of all analogy we could hardly understand the picture aright or retain it securely” (CG<sup>2</sup> §157.2; *Christian Faith*, 697).

<sup>40</sup> “The Scripture was now completely fulfilled in Him, and, erroneously as the great majority had always interpreted these glorious words of prophetic men, their true import would now be better apprehended by all” (Friedrich Schleiermacher, “The Last Look at Life,” in *Selected Sermons of Schleiermacher* [trans. M. Wilson; London: Hodder & Stoughton, 1890] 235–49, at 240).



The end of prophecy comes most decisively with Christ's ascension, when he was no longer present on earth to fulfill his prophetic office and the Spirit became present in the Christian fellowship. During the period of his suffering and death, however, Schleiermacher recognizes a window where the prophetic office of Christ was no longer present to the public: "For the people His work as a teacher came to an end with His arrest, but for the disciples only with His ascension."<sup>41</sup> While penultimate, this absence of prophecy is significant insofar as the prophetic ministry "is addressed to men in view of their opposition to Christ, in order to make them susceptible of union with Him." The public ministry of Christ's prophetic office is primary, while the continued ministry to the disciples after his resurrection then "bears on the distinction between Christ and them which still persists."<sup>42</sup> This distinction between public and private ministry may also serve to blunt Schleiermacher's concern that the beginning of Christ's public ministry in his baptism should not be construed as the beginning of his prophetic office, and allow us to draw parallels in Christ's activity between his baptism by John (the beginning of his primary prophetic task) and his suffering on the cross (the end of it).

### ■ Godforsakenness as the End of Prophecy

In the previous two sections, Schleiermacher's interpretation of Christ's cry of dereliction and his prophetic office have been outlined and set in historical context. It is time to remedy the "blank" identified by Ritschl by offering a new reading of Christ's godforsakenness as the end of prophecy in himself, defending it according to Schleiermacher's own terms in the *Glaubenslehre*.

In contrast to the beginning of Christ's public ministry where the Spirit descended upon him and the Father spoke a word of approval concerning the beloved Son, the end of Christ's public ministry is marked by exactly the opposite. When Christ was interrogated by his accusers, he was silent. When he was exhorted to prove his Sonship by coming down from the cross, he remained obedient unto death. The end of prophecy means that the work of the Redeemer toward which all prophecy had pointed was now fulfilled, and anything that might be said further to move beyond this work of redemption would not be appropriate to Christ's prophetic office or recognizable as Christian truth.

This is not the only implication of the end of prophecy, however. Because Christ's activity perfectly represented the being of God in his person to humanity, the silence of Christ is also inseparable from an original silence in God. The Spirit of the fellowship departed as his disciples were scattered during the arrest, and, most importantly for present consideration, Christ felt the abandonment of God on the cross. The godforsakenness of the Redeemer corresponds to the end of prophecy that comes in the completion of the work of Christ in his suffering and death. God's

<sup>41</sup> CG<sup>2</sup> §103.2; *Christian Faith*, 443.

<sup>42</sup> CG<sup>2</sup> §104.3; *Christian Faith*, 455.

silence is as determined and active as God's words spoken at Christ's baptism, but insofar as it marks an end to prophecy, it leaves a communicative void in the event of the cross where there had earlier been a public proclamation.

Upon what basis would God abandon his own? According to Schleiermacher, "The divine wisdom is not capable of producing any other disposition of things, or any other ordering of their course, than that in which the divine love is most perfectly realized."<sup>43</sup> This realization of divine love through wisdom is not an absolute occurrence in creation, however, because "sin invariably brings with it a diminution of the God-consciousness, and therefore of the divine impartation."<sup>44</sup> Further, the divine causality ordains sin with the intention of drawing humanity toward redemption.<sup>45</sup> There does, then, seem to be some basis for God's self-diminution from human consciousness that is not only compatible with, but even directed toward God's ultimate redemptive purpose.

In order to understand how godforsakenness can work within an actualist Christology in accordance with Schleiermacher's doctrine of sin, it is helpful to consider Schleiermacher's term *Verneinung*: denial or negation. The inefficacy of the God-consciousness is wrought in us by God to establish sin, ultimately with an aim to our redemption:

In so far as the sin consisted in the impotence of the God-consciousness, it would be a mere negative [nur eine Verneinung], *i.e.* something that could be neither a divine thought nor the result of a divine act; however, a mere negation [die bloße Verneinung] of power does not amount to sin, and, in fact, the mind is never satisfied to have sin explained as simply a defect. The defect becomes sin for us only in virtue of the fact that the God-consciousness, impotent against the sensuous impulse, disavows [verneint] as consciousness of the divine will that state of defect, whether simultaneously or before or after; for, without such disavowal [Verneinung], which is simply the recognition of a commanding or prohibiting divine will, there is no sin. We shall accordingly be able to say that, as the recognition of a commanding will is wrought [bewirkt] in us by God, the fact that the inefficacy of the God-consciousness becomes sin in us is likewise wrought [bewirkt] by Him, and indeed wrought [bewirkt] with a view to redemption.<sup>46</sup>

<sup>43</sup> CG<sup>2</sup> §165.2; *Christian Faith*, 727.

<sup>44</sup> CG<sup>2</sup> §169.1; *Christian Faith*, 735.

<sup>45</sup> CG<sup>2</sup> §81; *Christian Faith*, 335.

<sup>46</sup> CG<sup>2</sup> §81.3; *Christian Faith*, 336. The language of this passage may seem difficult to reconcile with the divine causality as absolute rather than present in discrete instances (which would subject the divine omnipotence to the interplay of natural causality). Nevertheless, Schleiermacher here clearly speaks of the rise of sin as a divine *Wirkung*. While a satisfactory resolution to this difficulty is beyond the scope of this essay, an answer lies in the direction of Schleiermacher's doctrine of the divine attributes, which in their particularity do not denote something particular in God but rather in the human feeling of absolute dependence. The divine causality as it is identifiable in its individual effects will therefore be an expression of divine omnipotence in its particularity—not adequate to a dogmatic understanding of divine activity, but also not in contradiction with Schleiermacher's understanding of divine activity.

Often in the *Glaubenslehre*, sin is described in terms of its effect, as “obstruction of life” or “diminution of the God-consciousness.” It is clear from the above passage, however, that sin is never a “mere negation,” but rather a recognition and denial by the God-consciousness of our own negative response to the divine will. When the divine will is fully instantiated in the life of a human, however, such sinful denial exhibits itself as more acute. Schleiermacher does not broach this consideration very extensively,<sup>47</sup> but doing so will offer constructive possibilities for the doctrine of Christ’s suffering. Those who reject Jesus of Nazareth actually reject the divine will perfectly revealed and imparted in the work of the Redeemer. Following Schleiermacher’s schema, then, the God-consciousness “denies” (verneint) such rejection: or, God abandons humanity, and this is received as a feeling of godforsakenness.<sup>48</sup> But this does not yet explain why Jesus was forsaken on the cross. According to Schleiermacher, the sinlessness of the Redeemer implies a lack of defect in the God-consciousness, giving no basis for recognition of sin in him.

My proposal for the denial of God experienced by Christ, on the contrary, can be established using Schleiermacher’s concept of “sympathy” (Mitgefühl). In the *Glaubenslehre*, Schleiermacher mentions three primary forms of sympathy relevant to his Christology. In §97.3 he posits a “sympathy with the condition of men” as “necessary, almost constant, in Christ, so that in a sense all His actions depend upon it.” This is a passive state of Christ’s humanity, and must somehow be reconciled with the redemptive activity of God in him. Christ’s sympathy, then, must be conceived “not as moved for and through itself, but only as taken up into association with an activity of the divine in Christ.”<sup>49</sup> The second form of sympathy is “sympathy with sin,” which is actually a particular case of the basic human sympathy in Christ and the sole ground of his suffering.<sup>50</sup> It also “serves to make complete and perfect our imperfect consciousness of sin.”<sup>51</sup> The perfection of

<sup>47</sup> Schleiermacher rarely discusses sin in such personal and confrontational terms; usually sin comes across as an obstruction or imperfection along the way to spiritual development rather than an oppositional stance. Noteworthy exceptions, however, include his account of the Jewish rejection of Christ (CG<sup>2</sup> §137.2; *Christian Faith*, 630) and Judas’s betrayal (*Life of Jesus*, 413–14). The Jews in question came to faith and were seeking repentance and baptism by Peter; the actions of Judas are attributed to false ideas about the Messiah that led him astray.

<sup>48</sup> See Thomas E. Schmidt, “Cry of Dereliction or Cry of Judgment? Mark 15:34 in Context,” *BBR* 4 (1994) 145–53. Schmidt even draws attention to the prophetic role of this episode (147–48).

<sup>49</sup> CG<sup>2</sup> §97.3; *Christian Faith*, 407. This justification of sympathy in Christ, as well as its association with the humanity of Christ, should be read in light of §85; *Christian Faith*, 353, where mercy is dismissed as an attribute of God because “it is conditioned by a sensuous sympathy.”

<sup>50</sup> CG<sup>2</sup> §104.1; *Christian Faith*, 452. Note that Schleiermacher is discussing the priestly office of Christ here, and identifies “a new difficulty . . . namely, that both the active and the passive obedience of Christ belong entirely to His self-presentation, and consequently to His prophetic office.” While Schleiermacher goes on to consider the matter “only insofar as it is something different” from the prophetic office, I am concerned precisely with the sympathy of Christ as it grounds his suffering within the prophetic office. This will come out more clearly as I respond to some of Schleiermacher’s concerns about the idea of Christ’s godforsakenness and its associations with vicarious substitution.

<sup>51</sup> CG<sup>2</sup> §104.4; *Christian Faith*, 462.



our consciousness of sin is already attributed to the Redeemer in §68 as necessary and “the basis of the full consciousness of sin as a derangement of our nature, and of faith in the possibility of redemption by the communication of the spiritual power [of the Redeemer’s sinlessness].”<sup>52</sup> In God’s denial, which identifies sin as sin, the sympathy of the Redeemer is never absent. A mediating position presents itself here. The perfection of the God-consciousness in Christ instigates the divine “disavowal” (Verneinung) in order to “disavow as consciousness of the divine will that state of defect” in humanity. Yet the Redeemer is also sympathetic to this sinful state and so becomes subject himself to the divine disavowal. In a sermon from 1831, Schleiermacher speaks of the Redeemer’s cry as “the words which could only be the expression of this sympathy with the sin of the world, ‘My God, why hast Thou forsaken Me?’”<sup>53</sup>

In its third and most developed form, the sympathy of Christ is now sympathy with *Unseligkeit*. While Mackintosh and Stewart employ the translation “misery,” this rendering risks losing the sense of Schleiermacher’s intended contrast with blessedness (*Seligkeit*) and of suggesting a conflation with suffering, so that when Schleiermacher criticizes the idea that Christ “experienced, even if only for moments, *real misery*,”<sup>54</sup> the point is easily mistaken for an argument against the agony of Christ on the cross rather than against his loss of a state of blessedness. Schleiermacher is at pains to articulate the Redeemer’s sympathy with “unblessedness” amidst his own unflagging blessedness, and all within a situation of dire agony. In his *Christian Ethics*, the significance of this unblessedness (*Unseligkeit*) for the work of the Redeemer is stated more clearly:

To think of his blessedness as impulse and as communicated to us, we must . . . think of him carrying our deficiency of blessedness [Mangel an Seligkeit] in a sympathetic way, so to speak, so that our formulation also finds application to him, and a deficiency of blessedness [Mangel an Seligkeit] must be posited [gesetzt] in him so that it can become an impulse. This deficiency originates in him in his expanded self-consciousness, in his feeling with us our lack of blessedness [unsere Unseligkeit mitfühlen], and this is in him the impulse for the whole of his redeeming activity.<sup>55</sup>

<sup>52</sup> CG<sup>2</sup> §68.3; *Christian Faith*, 278.

<sup>53</sup> Friedrich Schleiermacher, “The Savior’s Peace,” in *Selected Sermons of Friedrich Schleiermacher*, 314–25, at 317. Schleiermacher’s intention here is to say that Christ spoke out of sympathy because he did *not* feel abandoned himself. I am, of course, attempting to make room precisely for an assertion of feeling rather than “sympathy” or “feeling-with” (Mitgefühl) and so I recognize that I am working against Schleiermacher’s own conclusions. It is important to note 1) that Schleiermacher does acknowledge a “sympathy with sin” that leads to the cry of dereliction, 2) that elsewhere he speaks of this sympathy as “vicarious” (see n. 15 above), and 3) that for Schleiermacher the real problem with Christ’s feeling of abandonment is the harmony between God and Christ that he thinks it threatens, rather than the idea that a fellow feeling of Christ with humanity cannot be taken up into his own personal state.

<sup>54</sup> CG<sup>2</sup> §101.4; *Christian Faith*, 436 [emphasis mine].

<sup>55</sup> Friedrich Schleiermacher, *Selections from Friedrich Schleiermacher’s Christian Ethics* (trans. James Brandt; Library of Theological Ethics; Louisville: Westminster John Knox, 2011) 40. For

As explained here, Christ's sympathy actually results in a positing of our own state within himself and his state within us; he "became sin for us." The implications of Christ's *mitfühlen* for Schleiermacher are thus stronger than usually interpreted. The key is that the deficiency of blessedness originating in sympathy "must have been present only as the result of an impulse which was determined in the manner appropriate to Him . . . when as sensation or feeling [it] remain[s] wholly within the limits of the quiescent consciousness."<sup>56</sup> Quiescence here is acquiescence: the receptivity of the Redeemer to the divine causality perfectly expressed in his acts. If it is a steady peacefulness, it is the sort of peacefulness about which Schleiermacher preaches in the 1831 sermon quoted above. Christ's peace amounts to the fact

that He was eternally, and in all respects, one with His Father; that whatever His eye rested on around Him, His spirit considered as a work of God; that He suffered His will to be determined by no emotion of His own mind, without having first recognised the will of God in what was required of Him; and that thus the one effect constantly kept pace with the other.<sup>57</sup>

Christ's experience of suffering in abandonment as I have interpreted it was surely not a moment of calm and serenity, but nor did it threaten the peace and blessedness of the Redeemer as elaborated here. Christ recognized the will of God in his obedience unto death; indeed, he knew that his crucifixion and abandonment was the work of God. In giving himself up to be crucified, he "kept pace with" God even in his agony. It was a fulfillment of the Redeemer's peace and blessedness to end his prophetic vocation by receiving the silence of God and actualizing it during his own final hours. Further, it is important to affirm that God's silence was also an immanent peace within Godself rather than a reaction to, or determination of, human sin. God's silence was restfulness in the steadfastness of the divine impartation in the face of human rejection.

This account of the cry of dereliction offers positive content for Schleiermacher's doctrine of redemption; it explains what the end of prophecy entails within the redemptive ministry of Christ. This account also applies Schleiermacher's actualism to the suffering and death of Christ, adapting events that are normally taken to be passive and identifying an active element within them: the Redeemer was silent before his accusers for a reason pertaining to his prophetic work. He did not simply pass the time. Nor were the Father and the Spirit simply absent; rather, the activity

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the original see *Die christliche Sitte nach den Grundsätzen der evangelischen Kirche* (ed. Ludwig Jonas; Berlin: Reimer, 1843) 39.

<sup>56</sup> CG<sup>2</sup> §98.1; *Christian Faith*, 414–15. Elsewhere in the *Glaubenslehre*, this "quiescent consciousness" [*ruhenden Bewußtseins*] is present in "the human nature of Christ in its act of uniting with the quiescent consciousness of being accepted" (CG<sup>2</sup> §108.2; *Christian Faith*, 485). The risk here is similar to that in §97.3; *Christian Faith*, 407, where sympathy in Christ presents a state of passivity that must always stand in "association with an activity of the divine in Christ" (see Robert Merrihew Adams, "Philosophical Themes in Schleiermacher's Christology," *Philosophia* 39 [2011] 449–60, at 457–58).

<sup>57</sup> Schleiermacher, "The Savior's Peace," 315.

of Christ in his suffering and death perfectly represents the pure activity of God in him. The Redeemer experienced this as godforsakenness.

## ■ Objections

The most serious objection to my account of the godforsakenness of Christ is that it threatens the status of Jesus as the Redeemer by compromising his perfect God-consciousness. The reasons for this objection are somewhat complicated and various, and deserve extended treatment. Two fundamental arguments drive the objection, and have already been mentioned as the primary reasons established by Schleiermacher for his view on the cry of dereliction. I believe that the first argument is not relevant to my account of the cry of dereliction, but I will address it in order to offer the most comprehensive consideration of Schleiermacher's thought and further demonstrate the extent to which Schleiermacher's system is receptive to my account of the cry of dereliction. The second argument is a more direct challenge to my account, and will require a critique of Schleiermacher's situating of the dignity and work of Christ in expounding upon his godforsakenness.

1) In the *Glaubenslehre*, Schleiermacher's primary objection to interpretations of the cry of dereliction as suffering is that such a state introduces an inappropriate consciousness of sin in Christ through the experience of divine punishment:

This theory . . . is obviously based on the assumption that there is an absolute necessity in the divine punishment, without any regard to the natural connexion of punishment with moral evil. This again can hardly be divorced from a conception of the divine righteousness which has been transferred to God from the crudest human conditions.<sup>58</sup>

The concern quoted above is that a theory of divine punishment on the cross contradicts the necessary connection between punishment and evil. In §76 Schleiermacher states that "all evil is to be regarded as the punishment of sin,"<sup>59</sup> yet on the cross punishment was inflicted upon a sinless Redeemer for whom no consciousness of evil as punishment for sin could be present. For Christ to have recognized godforsakenness as punishment, he would have had to have taken into himself a consciousness of sin when only sympathy with sin is appropriate to the Redeemer. To do so as a substitute for human immorality more generally would have been to raise to the level of divinity "the crudest human conditions."

I take this objection to be inapplicable to my account of the cry of dereliction because I have not argued for a godforsakenness that constitutes punishment. My account of the cry of dereliction pertains to the exemplary and didactic activity of the prophetic office of Christ, and takes the end of prophecy demonstrated by Christ's silence before his accusers to be a "witness to the Being of God in Him,"<sup>60</sup> so that an

<sup>58</sup> CG<sup>2</sup> §104.4; *Christian Faith*, 460.

<sup>59</sup> *Christian Faith*, 317.

<sup>60</sup> CG<sup>2</sup> §103.2; *Christian Faith*, 446.



original silence in God must have been present at the close of the prophetic activity of Christ. The cry of dereliction is an indication by Christ of this silence, which was experienced as forsakenness. But God's action was not a punishment of Christ; it was rather a denial of the human rejection of the Mediator who as Mediator is also receptive to that divine denial, objectively as a human and subjectively as the perfect instantiation of the divine causality. Christ is a "satisfying representative" rather than a "vicarious satisfaction."<sup>61</sup>

While my account does not depend upon a doctrine of penal substitutionary atonement, however, it is important to note that nothing in it contradicts such a model. Godforsakenness understood as the end of Christ's prophetic office and an active receptivity to the divine judgment of human rejection could be affirmed alongside of an account of the divine wrath exercised against Christ who "was made sin for us."<sup>62</sup> Such a unified theory would go beyond the intentions of this essay and also stand in more direct contradiction with Schleiermacher's basic premises, but the broad compatibility of my proposal across quite contrasting interpretive approaches to the atonement offers some indication of its doctrinal potential.

2) The more compelling objection to my account of the cry of dereliction is not offered in the *Glaubenslehre*, but rather in the *Leben Jesu* lectures:

I can think of no movement when the relationship between God and Christ could have changed. It must always have been the same. Christ's oneness with the Father can never have been ended, but that seems to be what such a saying indicates. Some claim that such a state of abandonment by God was a necessary part of the plan of redemption. I admit gladly that I do not believe that. It contains an untruth, for if such a one had been abandoned by God he would have to be an untruth.<sup>63</sup>

For this objection, it is inconsequential whether the state of godforsakenness is taken to be a divine punishment, or suffering, or an instance of divine wrath.<sup>64</sup> The event of abandonment by God threatens the being of God in Christ, regardless of why it has occurred or what else it represents as a physical experience. I have asserted that the end of prophecy in Christ's own prophetic office must imply a silence of God in order to have been reproduced in Christ's obedient activity. But this seems to mean

<sup>61</sup> See Katherine Sonderegger, "Must Christ Suffer to Redeem? The Doctrine of Vicarious Atonement in Schleiermacher and Baeck," *Zeitschrift für neuere Theologieggeschichte* 2 (1995) 175–92, at 183 n. 27.

<sup>62</sup> 2 Cor 5:21.

<sup>63</sup> Schleiermacher, *Life of Jesus*, 423.

<sup>64</sup> The question of divine wrath has not been addressed in this paper because it is not prominent in Schleiermacher's account of the cry of dereliction, but consideration of it alongside other aspects of the suffering and death of Christ would be appropriate. See Schleiermacher's 1830 sermon "Daß wir nichts vom Zorne Gottes zu lehren haben," translated as "The Wrath of God" in *Servant of the Word: Selected Sermons of Friedrich Schleiermacher* (trans. Dawn DeVries; Fortress Texts in Modern Theology; Philadelphia: Fortress, 1987) 152–65.

that I have argued for the necessity of the “untruth” that Schleiermacher identifies here. Doing so simply embeds the problem more deeply rather than resolving it.

The problem, for Schleiermacher, hinges on the preservation of the dignity of the Redeemer. The Christology of the *Glaubenslehre* explores the doctrine of the Redeemer according to the necessary conditions for the redemption of humanity,<sup>65</sup> which become the basis for Schleiermacher’s strong insistence on the absolute sinlessness of the Redeemer.<sup>66</sup> In order to stand as the ideal and impart blessedness to humanity, the Redeemer’s blessedness must be continuous. Otherwise, Christ himself would stand in the same position as the rest of sinful humanity, perhaps as an exemplar, but even as such not able to redeem.<sup>67</sup> The *Glaubenslehre* was “developed out of the Christian consciousness of redemption. The criterion for the adequacy of the dogmatic doctrines was whether they could ensure the enduring significance of the person of Jesus that the Christian faith professed.”<sup>68</sup>

Schleiermacher asserts rather straightforwardly that a condition of godforsakenness threatens the blessedness of the Redeemer by threatening his perfect God-consciousness. No explanation is present for why this is the case—apparently because such a conclusion seems obvious. I believe, however, that the effect of divine abandonment deserves closer scrutiny.

It should initially be stated that the problem is not one of an inner struggle in Christ. Schleiermacher associates the temptation of Jesus in the desert, his prayer to the Father in Gethsemane, and his cry of forsakenness on the cross as related episodes of struggle, though he deals with each one differently.<sup>69</sup> On the cross, however, there is no indication that Jesus struggled to submit to the will of God. He was in agony and questioned *why* God had abandoned him, but this is not the sort of struggle that Schleiermacher finds problematic. An experience “involves sin in [Jesus], if we take it as meaning that there was even an infinitely small element of struggle involved,”<sup>70</sup> but here he is referring to a struggle with the temptation to sin, or with the resolve to obey the will of God, rather than any general situation of pain or strife. Further, I have argued for an understanding of the crucifixion in which

<sup>65</sup> See Wolfgang Trillhaas, “Der Mittelpunkt der Glaubenslehre Schleiermachers,” *Neue Zeitschrift für systematische Theologie* 10 (1968) 289–309, at 299–300.

<sup>66</sup> See CG<sup>2</sup> §98; *Christian Faith*, 413–17.

<sup>67</sup> See CG<sup>2</sup> §93.2; *Christian Faith*, 377–79.

<sup>68</sup> Maureen Junker-Kenny, “Schleiermacher’s Transcendental Turn: Shifts in Argumentation between the First and Second Editions of the *Glaubenslehre*,” *New Athenaeum / Neues Athenaeum* 3 (1992) 21–41, at 33–34. Junker-Kenny goes on to argue that Schleiermacher fails to establish adequately the unique dignity of Christ. I do not agree with this christological assessment, although I find her analysis of Schleiermacher’s argumentation helpful.

<sup>69</sup> CG<sup>2</sup> §98.1; *Christian Faith*, 414–15 and §104.4; *Christian Faith*, 460. These episodes were widely discussed during the period; especially worth noting are the articles of Carl Ullmann and Leonhard Usteri in *Theologische Studien und Kritiken* from 1828–1832. For an overview of the literature focusing on the temptation, see the appendix in Carl Ullmann, *The Sinlessness of Jesus: An Evidence for Christianity* (trans. Sophia Taylor; Edinburgh: T&T Clark, 1870) 264–91.

<sup>70</sup> CG<sup>2</sup> §98.1; *Christian Faith*, 414.

Christ perfectly actualizes the withdrawal of God through his own withdrawal in the end of prophecy—the close of his public ministry, his silence before accusers and soldiers, and his refusal to come down from the cross in order to demonstrate his Sonship.<sup>71</sup> Schleiermacher has expressed this christological actualism in the “quiescent consciousness” discussed above; persistent quiescence signals a total lack of moral struggle in Christ.<sup>72</sup>

Yet Schleiermacher thinks that a disruption is present nonetheless, and he speaks of it in more general terms of association with a state of misery if not directly as a failure of effortless obedience. In §11.2, Schleiermacher seems to hint at Christ’s predicament in connection with evil and sin:

The evil condition can only consist in an obstruction or arrest of the vitality of the higher self-consciousness [die Lebendigkeit des höheren Selbstbewußtseins gehemmt oder aufgehoben], so that there comes to be little or no union of it with the various determinations of the sensible self-consciousness, and thus little or no religious life. We may give to this condition, in its most extreme form, the name of *Godlessness* [Gottlosigkeit], or, better, *God-forgetfulness* [Gottvergessenheit].<sup>73</sup>

Yet while these conditions are perhaps suggestive of godforsakenness (*Gottverlassenheit*), there are important differences. Christ was not godless nor forgetful of God on the cross, even in being forsaken by God. Schleiermacher thinks that godforsakenness in itself is an obstruction of the God-consciousness—but is it? If “to feel oneself absolutely dependent and to be conscious of being in relation with God are one and the same thing,”<sup>74</sup> one would have to argue that the feeling of absolute dependence was also absent on the cross, and this seems difficult to establish. On what basis could Christ lament abandonment by the “whence” of a dependence that he did not even feel?<sup>75</sup>

The dilemma is a question of directionality in the identity: Does God-consciousness determine the feeling of absolute dependence, or vice versa? Does an apparent lack of God-consciousness signal a lack in the feeling of dependence,

<sup>71</sup> Matt 27:39–44. Note the allusion to the second temptation in the wilderness, although on the cross Jesus remains publicly silent while in Matt 4:7 he prophesies to the devil.

<sup>72</sup> I follow Kevin Hector in identifying Schleiermacher’s christological actualism with the persistent state of blessedness in Christ. Hector helpfully presents the effortless expression of the higher self-consciousness in Christ through the concept of “attunement” (see Kevin Hector, “Attunement and Explicitation: A Pragmatist Reading of Schleiermacher’s ‘Theology of Feeling’,” in *Schleiermacher, the Study of Religion, and the Future of Theology: A Transatlantic Dialogue* [ed. Brent W. Sockness and Wilhelm Gräb; Theologische Bibliothek Töpelmann 148; Berlin: De Gruyter, 2010] 215–42, at 229–30).

<sup>73</sup> CG<sup>2</sup> §11.2; *Christian Faith*, 54 [emphasis in original].

<sup>74</sup> CG<sup>2</sup> §4.4; *Christian Faith*, 17.

<sup>75</sup> “The feeling of dependence is the common element in all receptivity determinations of the subject, and it signifies a concrete determination of the subject by its codetermining other. Without the other and its influence, the subject would not be determined as he is” (Robert Williams, “Schleiermacher and Feuerbach on the Intentionality of Religious Consciousness,” *JR* 53 [1973] 424–55, at 436–37).



or does the feeling of dependence in Christ reassure us that the God-consciousness of Christ remains amidst the void created by forsakenness? This ambivalence is also present in consideration of Christ's suffering. Did Christ not suffer because this would put his sinlessness in question? Or does his sinlessness reassure us that the sufferings of Christ can be affirmed without fear of their implications for his dignity?<sup>76</sup> As Ritschl puts it, "In Christ Himself blessedness and the power of the God-consciousness are made to be regarded as independent of each other, and as reciprocally conditioning each other"<sup>77</sup>—but this very reciprocity amidst independence makes it unclear which status is determinative in a situation where they seem to conflict.

It will be most helpful for a clarification of the present argument to consider a critique made by Karl Bretschneider against Schleiermacher concerning the very problem of God-consciousness in the suffering Christ. In an 1825 article on the concept of redemption in the 1821–1822 *Glaubenslehre*, Bretschneider writes,

It is thus not inconsequential when the author asserts that there was never a struggle within Jesus and that his sinlessness was not at all the consequence of a struggle. . . . What justifies the author in conceiving of such an idea about Jesus? I have found nothing that allows me to take his concept as anything other than a speculative interpretation of the ecclesial doctrine of the two natures in Christ. The Gospel history, which is here absolutely alone to be consulted, contradicts the idea of the author. It describes moments in the life of Jesus in which this supernatural sinlessness was not in him, but rather when he felt and struggled as a human, and therefore (according to the author's theory, though it is not our own) must have sinned.<sup>78</sup>

In response, Schleiermacher asserts only more trenchantly his adherence to the principle of the sinlessness of the Redeemer, and strikes out at what he takes to be Bretschneider's use of the scriptural account of Christ's suffering against such an adherence: "This power [to redeem] is to be attributed completely and exclusively to Christ and . . . no trace of a need for redemption exists in his person. I hold to this presupposition so firmly that I would not allow any biblical passage that appears

<sup>76</sup> Maureen Junker-Kenny's summary of the literature does a good job of illustrating the variety of angles from which one can interpret Schleiermacher's view on the significance of the suffering and death of Christ (see Maureen Junker, *Das Urbild des Gottesbewußtseins. Zur Entwicklung der Religionstheorie und Christologie Schleiermachers von der ersten zur zweiten Auflage der "Glaubenslehre"* [Schleiermacher-Archiv 8; Berlin: De Gruyter, 1990] 199–200).

<sup>77</sup> Ritschl, *Critical History*, 470.

<sup>78</sup> Karl Bretschneider, "Ueber den Begriff der Erlösung und die damit zusammenhängenden Vorstellungen von Sünde und Erbsünde in der christlichen Glaubenslehre des Hrn. Prof. Dr. Schleiermacher," *Neues Journal für Prediger* 67 (1825) 1–33, at 28–29. Bretschneider's better-known (and less successful) criticism of Schleiermacher concerns the relationship between piety and feeling built upon a criticism of Schleiermacher's conception of *Gefühl* as *Selbstbewusstsein*; see Schleiermacher, *On the Glaubenslehre*, 38–39. An English translation of a section from Bretschneider's *Handbuch der Dogmatik*, which outlines his critique of Schleiermacher's doctrine of feeling, can be found in "Bretschneider's View of the Theology of Schleiermacher," *BSac* 10 (1853) 596–616.

to say the opposite to lead me to change my mind.”<sup>79</sup> Schleiermacher reasserts his commitment to the exclusive redemptive power of Christ, although this is not what Bretschneider is questioning. Rather, Bretschneider is criticizing Schleiermacher’s conception of God-consciousness and inner struggle, which has led to the false dilemma of choosing between Christ’s sinlessness and adherence to the scriptural account. Bretschneider’s point is that, given Schleiermacher’s doctrine of sin and blessedness, the Gospel accounts of the suffering of the Redeemer present serious problems for Christ’s unique dignity. It is only reasonable to reassess the doctrine of sin in light of the problems it creates for a biblical doctrine of redemption.

Schleiermacher, however, would not entertain such a revision: “To consider as sin the self’s struggle with itself to submit to God’s will is a stricture from which I cannot dispense myself. And for that reason I cannot attribute such a struggle to Christ without annihilating the basic presupposition [*Grundvoraussetzung*].”<sup>80</sup> The “basic presupposition” to which he refers is the complete and exclusive power of Christ to redeem based upon his sinlessness. Yet on this point, Schleiermacher is actually responding to the criticism of Christlieb Julius Braniss, and not those of Bretschneider. Braniss argues that the Christ of the *Glaubenslehre* is different only in degree from an exemplar like Aristotle, and Bretschneider actually agrees with Schleiermacher against this charge of Braniss.<sup>81</sup> In conflating his response to these two quite separate arguments, though, Schleiermacher misses the significance of Bretschneider’s point. By simply refusing to reconsider the doctrine of sin, Schleiermacher establishes a second and unspoken “basic presupposition” against Bretschneider that constrains his own doctrine of the Redeemer within the limits of his psychology.

I believe that Bretschneider’s criticism identifies the problem of Schleiermacher’s equivocation concerning the historicity of the Redeemer with impressive precision. While its reception has suffered somewhat from Schleiermacher’s infelicitous response in his *Sendschreiben* (in *On the “Glaubenslehre”*), the critique deserves continued recognition. Bretschneider’s concern serves well as a response to the second objection to my proposal. I have argued above that the relationship between godforsakenness and the God-consciousness, or sinlessness and suffering, is ambiguous in the *Glaubenslehre*. As a result, it is unclear which principle should determine our interpretation of an event like the cry of dereliction, or in Schleiermacher’s terms, which (if either) is the *Grundvoraussetzung*. More positively, this ambiguity leaves open possibilities for the *Glaubenslehre* that are recognizably Schleiermacherian despite some disagreement with Schleiermacher’s own conclusions.

<sup>79</sup> Schleiermacher, *On the “Glaubenslehre”*, 46.

<sup>80</sup> Schleiermacher, *On the “Glaubenslehre”*, 46–47. Ullmann later calls the sinlessness of Jesus “ein Grundgedanke ihrer Systeme” (Carl Ullmann, *Die Sündlosigkeit Jesu. Eine apologetische Betrachtung* [2nd ed.; Hamburg: Friedrich Perthes, 1833] 9).

<sup>81</sup> “According to the author, this is (in moral terms) no man, but rather a God, whom one can adore, but cannot follow” (Bretschneider, “Ueber den Begriff der Erlösung,” 28).

## ■ Conclusion

Much in the received wisdom on Schleiermacher's thought conspires against the obviousness of the above proposal. Schleiermacher's doctrine of redemption, though usually no longer misread as a version of moral exemplarism, does focus more on the incarnation and a developmental approach to Christ as the second Adam than on the atoning work of the cross. When the suffering and death of Christ is considered, its importance for the doctrine of redemption is usually stymied by the introduction of a supposed Docetism in Schleiermacher, which insists upon a meek and mild Christ crucified, whose suffering is not exactly denied, but comes across as uneventful and insignificant for the redemptive work of God.

In contrast, I have proposed an interpretation of the cry of dereliction that revises Schleiermacher's explicit conclusions about the event of Christ's abandonment by God while hewing closely to the structure, content, and purpose of Schleiermacher's doctrine of the person and work of the Redeemer. Instead of interpreting the godforsakenness of Jesus as a defeat for his unique and persistent dignity as Redeemer, I have presented an understanding of godforsakenness as the end of prophecy. God is silent and withdrawn from Jesus, and Jesus perfectly actualizes this abandonment in his own public silence, which marks the climax and end of all prophecy. My proposal strengthens Schleiermacher's account of the threefold office of Christ precisely where it is weakened by the *Glaubenslehre*'s preoccupation with older views of the atonement connected to the priestly office. My proposal also builds upon the growing recognition of Schleiermacher's actualist Christology by offering an account of Christ's perfect manifestation of God's redeeming work in his suffering and death. Schleiermacher's enduring significance as a dogmatic theologian of the redemption has recently experienced something of a renaissance of attention, and the current work stands as a contribution to this wider conversation, which holds significant promise for Schleiermacher interpretation as well as constructive theology more generally.



# Rabbinic Law between Biblical Logic and Biblical Text: The Pitfalls of Exodus 21:33–34\*

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When the justices of the U.S. Supreme Court conclude that some law, or some decision of a lower court, violates the U.S. Constitution, no great difficulties of principle or sentiment need accompany their decision to abrogate the opinions of the earlier legislators or judges. The justices, and others, are expected to understand their decision either as correcting a mistake that had been introduced by fallible people who, with intentions good or bad, or unintentionally, had violated the system's basic rulebook, or as reflecting the fact that since the time those legislators or judges made their decisions something relevant (such as notions of "cruel and unusual punishment" or of what affects interstate commerce) had changed, so what was once constitutionally acceptable no longer is. Thus, however upsetting the substance of the justices' decision may be, it need not imply a condemnation of their predecessors nor entail a disruption of the system's authority structures—as is seen in the fact that the justices, and American citizens, readily use such explicit verbs as "reverse," "strike down," or "overturned" for what the justices do

When, in contrast, the authorities of a religious community discover, or are forced to recognize, that some practice or doctrine to which they subscribe contradicts their sacred scripture, it might not be so simple for them to abrogate the practice

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or doctrine. For if, as is often the case, they believe that that scripture is as holy and immutable as the deity who inspired it, such abrogation would imply that previous adherents and teachers of the religion—to whom their heirs owe much more *pietas* than the justices of the U.S. Supreme Court owe legislators or other judges—had, willfully or not, been wrong, indeed sinful. That is a conclusion to be avoided at almost any cost.<sup>1</sup>

When one adds to that consideration the likelihood that the offending practice or doctrine serves some need—for otherwise it would not have been adopted by the community in the first place—it is easy to understand that frequently such religious authorities will respond to the discovery of the contradiction by defending the practice or doctrine. That may be achieved by various routes, of which two standard options are elimination of the contradiction via creative interpretation of scripture or recourse to some overriding extra-scriptural authority, such as revelation or some special figure or council. Such defense of tradition is especially to be expected if the contradiction is uncovered and underscored in a polemical context, in which opponents of the tradition attempt to gain points by pointing out the contradiction.<sup>2</sup>

In contrast, the present study will focus upon a case in which, in the absence of such a polemical context, and when dealing with a law that hardly served any practical need, ancient rabbis adopted another option: when they noticed that a traditional law violated the Bible, they abrogated the traditional law. However, since even in a non-polemical context, and even with regard to an issue of little practical importance, religious teachers will strive to avoid the conclusion that their venerated predecessors had been in sinful error, the rabbis had only two options. One would be explicit emendation of the traditional law, on the basis of the sincere or disingenuous assertion that the received text was in disorder (thereby shifting the blame from venerated teachers to second-rate figures: negligent tradents or scribes). However, ancient rabbis seem to have begun to apply this approach to the Mishnah (upon which we will focus) only in the fourth century, and in Babylonia<sup>3</sup>—and that might explain why in the case upon which we shall focus, where the problem was recognized already in the third century and in Palestine, another, more elegant solution was applied: the problem was resolved via reinterpretation of the received text.

<sup>1</sup> For a plain case of the legal implications of such *pietas*, note the 1964 refusal of a prominent American rabbi to rule that Jewish law forbids smoking, despite its dangers to health. The refusal was based “especially on the fact that smoking was and is practiced by some great men of the Torah, in past generations and the present one” (Moshe Feinstein, *Responso Iggērot Moshe: Yoreh Deah*, II [1973; repr., New York: Noble, n.d.] 69, no. 49 [Hebrew]).

<sup>2</sup> For a study of Jewish insistence upon defending tradition against biblicalizing reformers, see Marina Rustow, “Karaites Real and Imagined: Three Cases of Jewish Heresy,” *Past and Present* 197 (2007) 35–74. For Reformation and Counter-Reformation debates about tradition vs. Scripture, see Keith A. Mathison, *The Shape of Sola Scriptura* (Moscow, Idaho: Canon, 2001) 124–33.

<sup>3</sup> See Abraham Goldberg, “The Babylonian Talmud,” in *The Literature of the Sages* (ed. Shmuel Safrai et al.; 2 vols.; *Compendia Rerum Iudaicarum ad Novum Testamentum* 2.3; Assen: Van Gorcum, 1987–2006) 1:323–66, at 332–33.

Put in such a general way, this is not a rare procedure. The way it is usually done is known in rabbinic tradition as *ʿuqimta* (setting up): when two laws are found to contradict one another, the rabbis “set up” the terms of one or both of them in bounds narrower than those assumed by a more natural interpretation, thus eliminating the problematic collision.<sup>4</sup> Thus, for two simple examples: when rabbis who held that “the law of the kingdom is law” (i.e., Jewish subjects of a kingdom are obliged to obey its laws) was a basic principle confronted a mishnah that allows Jews to evade taxation by lying to tax-collectors (*m. Ned.* 3:4), they resolved the contradiction by asserting that the mishnah refers not to all tax-collectors, including those who work on behalf of the government (the only tax-collectors contemplated by natural interpretation!), but only to private ones, i.e., criminal extortionists of “protection” (*b. Ned.* 28a); similarly, when rabbis who held it to be a basic principle that one is not allowed to use any part of a human corpse confronted a mishnah that allows the use of the hair of a woman who has been executed (*m. ‘Arak.* 1:4), they resolved the problem by positing that the mishnah refers not to all of the woman’s hair, including the hair that grew on her head (the only hair contemplated by natural interpretation!), but only to her wig (*b. ‘Arak.* 7b).<sup>5</sup>

As these examples show, the typical *ʿuqimta* eliminates a contradiction by semantic legerdemain: it suggests we read the law as we did before but narrow the application of one or more of the words that it uses. That does not create any new law; it only restricts the application of a previously existing law, leaving the problematic case out of the purview of the offending law. In the case addressed in the present study, however, what had come to be recognized as biblical law was so completely contradicted by a mishnaic law that the problem could not be avoided merely by narrowing the scope of one or the other. Rather, to resolve the problem the rabbis had to do something more far-reaching, and what they chose to do was tinker with the syntax of the mishnaic text, construing the relations among its terms in quite an unnatural way. Given the fact that the text is a legal text, however, combining its words in a new way did not only limit the scope of the original law (as with a usual *ʿuqimta*); rather, it created a new law. That new law is reasonable enough, but given the way it originated it is not at all surprising that its formulation is anything but natural. It is, in fact, the unnatural character of

<sup>4</sup> On this procedure and its logic within the halakhic system, see Menachem Fisch, “Far-Fetched Interpretation and Obligatory Texts: The Amoraic *ʿUqimta* and the Philosophy of the Halakhah,” in *New Streams in Philosophy of Halakhah* (ed. Aviezer Ravitzky and Avinoam Rosenak; Jerusalem: Magnes, 2008) 311–44 [Hebrew]; and idem, “Legislation and Legal Norm Development in Jewish Law,” *Periodica de re canonica* 96 (2007) 401–17. Fisch focuses on cases in which the Amoraim change, by narrowing, the meaning of tannaitic texts; my discussion will focus on a case in which the change is not accomplished by narrowing and in which the amoraic change constitutes a return to biblical law.

<sup>5</sup> For the opinions that the basic principles in these two examples are actually of biblical origin, see, respectively, Shmuel Shilo, *Dina de-Malkhuta Dina: The Law of the State is Law* (Jerusalem: Jerusalem Academic Press, 1974) 85–87 [Hebrew]; and *b. ‘Abod. Zar.* 29b.



its formulation, displayed in part 1 of this paper, that first suggested that it is the secondary result of some editorial process.

The two laws upon which this paper will focus deal, respectively, with animals and people. Part 1 will show that the law about animals is formulated very strangely; part 2 will show that the law about people changed over time; and part 3 will first argue that it was a swing toward the Bible that explains why the law about people changed and then show that it was the syntactical adjustment required by that swing that forced the unnatural application to animals of words that once quite naturally referred to people. I offer this case study in the hope that, beyond clarifying the particular case, one that amounts to the abrogation of an early rabbinic law and the genesis of quite a surprising formulation of a later rabbinic law, it will also contribute to the construction of a model explaining the circumstances under which a religious community will follow a particular option when such problems are discovered.

## ■ 1. A Surprisingly Formulated Rabbinic Law

<sup>33</sup> If a man opens a pit, or if a man digs a pit and does not cover it, and an ox or an ass falls into it, <sup>34</sup> the pit-opener shall render compensation: he shall return money to its owner, and the corpse shall be his. (Exod 21:33–34)

This biblical law, which imposes liability upon whoever left a pit open if an ox or ass falls into it and dies, is fairly straightforward and also in agreement, it seems, with our intuitive expectations: if an animal falls into a pit and dies, the one who created the dangerous situation should compensate the animal's owner.<sup>6</sup>

However, some observers, and especially those who dig pits, might well rebel against the notion that they should be held liable for the death of such animals. First, they might argue, we should recognize that when the Bible referred to a “pit” it meant something quite useful: a well or a cistern. People who dig them are not doing anything that is ipso facto illegitimate; far from it, they should be encouraged, and one way of doing that is by limiting their responsibility when things go wrong.<sup>7</sup> Moreover, human experience shows that most animals successfully avoid falling into pits, so if one does not it is unfair to thrust all of the burden for such a fluke upon the pit-opener. And as for animals that are too young or too stupid to avoid pits—is it not the case that their owners should supervise them and therefore accept at least some of the responsibility for their accidents?<sup>8</sup>

<sup>6</sup> For some details, see Bernard S. Jackson, *Wisdom-Laws: A Study of the Mishpatim of Exodus 21:1–22:16* (Oxford: Oxford University Press, 2006) 313–21. In v. 34 (and below) I use “pit-opener” rather than “owner of the pit,” for it obviously refers to the people mentioned in v. 33; see Jackson, 314–15.

<sup>7</sup> For this argument, see Adolf Schwarz, *Die Tosifia des Traktates Nesikin. Baba Kamma* (Vienna: Israelitisch-Theologische Lehranstalt, 1912) 55 n. 138 [Hebrew].

<sup>8</sup> For the general tendency of Jewish law to limit tort liability and, in that connection, for a discussion of the Talmud's view of contributory negligence as nullifying liability, see Steven F. Friedell, “Some Observations on the Talmudic Law of Torts,” *Rutgers Law Journal* 15 (1983/1984)

Thoughts such as these evidently lie behind a rabbinic law that limits the broad biblical imposition of liability upon pit-openers to cases in which the animal either could not see the pit (because it was blind or fell in at night) or was so young or so abnormal that it could not realize the danger posed by the pit. As Maimonides formulates this law, there is no liability for the death of a normal animal that could see the pit “for this is like a case of *force majeure*, because animals usually see impediments and avoid them.”<sup>9</sup> Indeed, our case is cited, in a modern analysis of rabbinic tort law, as a prime example of the usual rule that “a tortfeasor need pay only for such damage that he should have realized that his actions might cause because such a result is usual.”<sup>10</sup>

But if the law itself is reasonable, insofar as it eliminates liability for normal animals but maintains it for subnormal animals,<sup>11</sup> the problem we will focus upon in this paper is that the formulation of this law in the central ancient source that states it, the Babylonian Talmud, sounds like a joke. The Talmud does not speak of “normal” and “subnormal” animals. Rather, the way it puts the law (at *b. B. Qam.* 54a–b, translated in the appendix) is that the mishnaic rule נפל לתוכו שור חרש שוטה וקטן חייב (*m. B. Qam.* 5:6) means “if an ox that is deaf-mute, imbecilic, or underage falls [into a pit and dies, the pit-opener] is liable [for damages].” In my experience, this law—codified that way in the standard compendia of Jewish law<sup>12</sup>—surprises virtually all who hear of it for the first time, even those with some familiarity with rabbinic literature and law. Often they respond with incredulity or amusement.<sup>13</sup> Upon reflection, it seems that there are eight reasons for such reactions:

1) This clause of the Mishnah is the sixth time *m. B. Qam.* 5:5–6 refers without any qualification to liability for an ox that fell into a pit. Readers, accordingly,

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897–925, esp. 917–24. Cf. the maxim in *m. B. Qam.* 1:2: “If I made part of the damage possible, I am liable for payment as if I made it all possible”; when applied to the victim of a tort who was himself negligent, this relieves the tortfeasor of liability. Similarly, English common law refused to impose any liability upon tortfeasors in such cases; see John G. Fleming, *The Law of Torts* (8th ed.; Sydney: Law Book Company, 1992) 268–70.

<sup>9</sup> Maimonides, *Mishneh Torah*, Hilkhoh Nizqei Mamot 12:16. For the equivalence of pits and impediments, see below, n. 37.

<sup>10</sup> Shalom Albeck, *General Principles of the Law of Tort in the Talmud* (Tel Aviv: Dvir, 1965) 75 [Hebrew]. On our law, see also *ibid.*, 152–53, 200. For a briefer treatment of the topic in English, as it applies to pit-falling (but without reference to our law), see *idem*, “Avot Nezikin,” *EncJud* 3 (corrected ed., 1972) 988.

<sup>11</sup> As to why rabbinic law did not go all the way with the tendency discussed in n. 8 and exempt the pit-opener even for the death of subnormal animals whose owners failed to supervise them sufficiently, one simple explanation is that such a step would have left the biblical law a totally dead letter.

<sup>12</sup> Maimonides, *Mishneh Torah*, Hilkhoh Nizqei Mamot 12:16 = *Shulhan Arukh*, Hoshen mishpat 410:19.

<sup>13</sup> Note that a modern paraphrase of the *Shulhan Arukh*, although very detailed, renders this law by distinguishing between “young” animals and “normal, grown” animals, thus sidestepping any specification of what “normal” excludes and avoiding such incredulous or amused reactions. See Emanuel B. Quint, *A Restatement of Rabbinic Civil Law* (11 vols.; Jerusalem: Gefen, 1990–2007) 10:73.

should be surprised to be informed so belatedly that those references apply only to subnormal oxen, there being no liability if the ox is normal.

2) The distinction between animals that are “deaf-mute” and “imbecilic” and those that are not sounds ridiculous, just as does the talmudic discussion that focuses on whether or not animals are included in references to those who have *da‘at* (intelligence).<sup>14</sup> Normal animals cannot speak, and normal animals are devoid of intelligence, as we normally use that word—as is indeed taken for granted elsewhere in the Mishnah: “my ox or my ass, which have no *da‘at*” (*Yad.* 4:7). Similarly, § 6 of the Talmud’s discussion of our law assumes that only one species—humans—has *da‘at*. The fact that to make our law acceptable a prominent medieval commentator was forced to assume that only exceptional animals lack *da‘at* shows how problematic this law is.<sup>15</sup> True, we could imagine distinguishing between *da‘at* in the sense of “intelligence” and *da‘at* in the sense of “instinct” (in our case: to avoid pits) and allowing normal animals the latter.<sup>16</sup> However, talmudic literature uses only the one term and expends no effort on making such a distinction. Similarly, although the Mishnah once refers to animals that are “deaf-mute” and “imbecilic” (*m. Bek.* 7:6), it invests no effort in defining these categories or in linking them to issues of legal responsibility.<sup>17</sup>

<sup>14</sup> As Schwarz wryly commented, in rejecting the talmudic interpretation of our mishnah: “Whatever one thinks about oxen, no one could possibly imagine making such distinctions about asses!” (*Tosifta des Traktates Nesikin*, 55 n. 138). Note also David Weiss Halivni’s comment, concerning the Talmud’s explanation of our mishnah: “Nowhere else do we find an ox termed a *ben da‘at*” (*Sources and Traditions: A Source Critical Commentary on the Talmud; Tractate Baba Kama* [Jerusalem: Magnes, 1993] 221 n. 8 [Hebrew]).

<sup>15</sup> “An ox that is deaf-mute, imbecilic, or underage is not wont—since it is not an intelligent being (*ben da‘at*)—to watch or check where it is going, and therefore the pit-opener is liable” (Menahem Meiri [d. 1316], *Beth Habehira on the Talmudical Treatise Baba Kamma* [ed. Kalman Schlesinger; 5th ed.; Jerusalem: Mosad Harav Kook, 1971] 163–64 [Hebrew]).

<sup>16</sup> For medieval discussions of related terms, see Bernard Septimus, “What did Maimonides Mean by *Madda‘?*,” in *Me‘ah She‘arim: Studies in Medieval Jewish Spiritual Life in Memory of Isadore Twersky* (ed. Ezra Fleischer et al.; Jerusalem: Magnes, 2001) 83–110.

<sup>17</sup> See, in general, Noam Zohar, “Animals as Moral Personae: The Secret of the Laws of the Stoned Ox,” in *Rabbinic Thought: Proceedings of the First Conference on “Mahshevet Hazal” Held at the University of Haifa, 7 Dec. 1987* (ed. Marc Hirshman and Tsvi Groner; Haifa: University of Haifa, 1989) 67–83, esp. 74–83 [Hebrew]. There are, of course, legal proceedings to determine whether an animal is violent and should be put to death; this is probably assumed by Exod 21:28–32 and is explicit in *m. Sanh.* 1:4. By way of comparison, see Plato, *Leg.* 9.873e–874a; Raphael Sealey, “Aristotle, *Athenaion Politeia* 57.4: Trial of Animals and Inanimate Objects for Homicide,” *CQ* 56 (2006) 475–85, esp. 481–84; and Edward Parson Evans, *The Criminal Prosecution and Capital Punishment of Animals* (1906; repr., London: Faber and Faber, 1987). However, recognition that animals may be dangerous does not imply that they may have intelligence or undertake legal responsibility for their actions. Nor are such conclusions implied by midrashic discussions of sinful animals (running counter to the basic legal position of the Mishnah, that animals cannot sin; *m. Sanh.* 7:4), on which see Victor Aptowitzer, “The Rewarding and Punishing of Animals and Inanimate Objects: On the Aggadic View of the World,” *HUCA* 3 (1926) 117–55; and Eric Lawee, “The Sins of the Fauna in Midrash, Rashi, and Their Medieval Interlocutors,” *JSQ* 17 (2010) 56–98.



3) In contrast, the triumvirate חרש שוטה וקטן (“a deaf-mute,<sup>18</sup> an imbecile, or a minor”) appears very frequently in rabbinic literature, including fifteen times in the Mishnah alone (among them three other occurrences in our *m. B. Qam.*: 4:4; 6:4; 8:4), always as substantives denoting people of diminished mental capacity and, therefore, of inferior legal status.<sup>19</sup> This makes it all the more surprising that those three words are not allowed this meaning in the present case.

4) The talmudic law under discussion, that the pit-opener is liable for the death of an animal only if it was mentally incompetent, is, according to the Babylonian Talmud (§ 2), based on the interpretation of חרש שוטה וקטן by R. Johanan b. Nappaha of Tiberias as adjectives (“deaf-mute, imbecilic, or underage”) describing the ox mentioned just before them.<sup>20</sup> Below (no. 8) we shall see that two other interpretations of these words are more natural. Here, however, I would emphasize that even if we were to accept R. Johanan’s interpretation, we would still need to recognize that there is quite a leap from the assertion that the Mishnah refers to such animals to the Talmud’s conclusion that the law is limited to such animals.<sup>21</sup> As the talmudic discussion reports in § 3, R. Jeremiah—who ought to have known what R. Johanan meant<sup>22</sup>—explained that R. Johanan thought it goes without saying (perhaps: because the Bible assumes it) that the pit-opener is liable for the death of normal animals. According to R. Jeremiah, R. Johanan merely meant that the Mishnah had to spell out the pit-opener’s liability for the death of mentally

<sup>18</sup> That the Tannaim used *heresh* in the sense of “deaf-mute” is explicit in *m. Ter.* 1:2. For the ancient assumption (abandoned in modernity with the development of new devices and pedagogy) that such people can neither be taught nor voice their own questions and are therefore on a legal par with the other two types listed here, see David M. Feldman, “Deafness and Jewish Law and Tradition,” in *The Deaf Jew in the Modern World* (ed. Jerome D. Schein and Lester J. Waldman; New York: New York Society for the Deaf, 1986) 12–23; and Tzvi C. Marx, *Disability in Jewish Law* (Jewish Law in Context 3; London: Routledge, 2002) 114–27. See already Isa 6:10 // Acts 28:27 and Saul M. Olyan, *Disability in the Hebrew Bible* (Cambridge, U.K.: Cambridge University Press, 2008) 35, 110–11.

<sup>19</sup> See, for example, *m. ‘Arak.* 1:1 (these three “have no intelligence”) and *m. Ṭehar.* 8:6 // *m. Makš.* 6:1 (they are “capable of deed but not of thought”), along with Judith Z. Abrams, *Judaism and Disability* (Washington, D.C.: Gallaudet University Press, 1998) 168–90; and Leib Moscovitz, “‘The Actions of a Minor are a Nullity’? Some Observations on the Legal Capacity of Minors in Rabbinic Law,” *JLA* 17 (2007) 63–120. Note that in this paper I use “deaf-mute, imbecilic, or underage” to reflect the adjectival usage with regard to animals, and “a deaf-mute, imbecile, or minor” to reflect the usage as substantives, of people.

<sup>20</sup> In *y. B. Qam.* 5:6[9], 5a, this interpretation is ascribed to R. Eleazar (b. Pedat). Since he was R. Johanan’s “colleague and disciple” (*y. Sanh.* 1:1, 18b [top]) and frequently reported his teachings (see the story at *y. Ber.* 2:1, 4b // *b. Yebam.* 96b and Jacob Nahum Epstein, *Introduction to the Mishnaic Text* [3rd ed.; 2 vols.; Jerusalem: Magnes, 2000] 1:292 [Hebrew]), and since my study focuses on the Babylonian Talmud, for simplicity’s sake I will refer to it as R. Johanan’s opinion.

<sup>21</sup> Strangely, Schwarz assumed that R. Johanan limits the law too to the three exceptional cases (*Tosifta Baba Kamma*, 55 n. 138). I see no basis for that.

<sup>22</sup> R. Jeremiah lived in Tiberias not long after R. Johanan and, inter alia, passed on his traditions. See Chanoch Albeck, *Introduction to the Talmud, Babli and Yerushalmi* (Tel Aviv: Dvir, 1969) 340–42 [Hebrew].

incompetent animals, for without such explicit clarification we might have imagined that in such cases the pit-opener is free of liability because the animal's owner was negligent insofar as he let the animal perambulate unsupervised (see above, n. 8). Given that obvious way of understanding the mishnah (on R. Johanan's interpretation),<sup>23</sup> the Talmud's decision to reject R. Jeremiah's explanation and limit liability to subnormal animals is a fourth surprise.

5) Moreover, note that according to R. Jeremiah's interpretation this mishnah is built very nicely, in a usual structure that juxtaposes two clauses headed by "even" to draw the border between two basic legal situations.<sup>24</sup> Namely, it states that, regarding animals, the pit-opener is liable even in the case of a pit-falling animal that was so subnormal that its owner was negligent in letting it perambulate, but regarding people the pit-opener is exempt from liability even in the case of pit-falling individuals so subnormal that the pit-opener could not have expected them to watch where they go.

The symmetry of that construction of the mishnah is very neat (although its second part is not at all without difficulty, as we shall see in the next paragraph), but the parallelism and its point are lost if the law in the first part in fact applies not "even" to subnormal animals but rather "only" to such animals. The fact that the Talmud, by rejecting R. Jeremiah's view, wrecks the mishnah's apparent structure is the fifth surprise.

6) Moreover, although that symmetric understanding of the mishnah ("even . . . even") is the obvious one to expect, if the first words refer (as the Talmud concludes) to subnormal oxen, the second clause is quite problematic. For if the first clause means there is liability for all oxen, even for oxen without intelligence, the second clause would be expected to mean, correspondingly, that there is no liability for people, even for people without intelligence—but the people the second clause in fact mentions ("son or daughter, slave or slave-woman") are not distinguished from other people by lack of intelligence. They are distinguished by their lack of full legal status, but as a rule they do possess, just as much as other people,

<sup>23</sup> For the argument that R. Jeremiah's explanation of R. Johanan's interpretation constitutes the true meaning of the mishnah, see Joseph Zvi (Hirsch) Dünner, *Neziqin* (vol. 3 of *Hiddushe Haritsad*; Jerusalem: Mosad Harav Kook, 1989) 59 [Hebrew]; and Howard I. Levine, *Studies in Talmudic Literature and Halakhic Midrashim* (ed. Yitzhak D. Gilat; Ramat Gan: Bar-Ilan University, 1987) 157–59 [Hebrew]. Levine holds that this was also assumed in the Palestinian Talmud and in the *Mekilta* of R. Shimon bar Johai.

<sup>24</sup> Compare two cases: concerning the rule that touching sacred Scripture makes one's hands impure, *m. Yad.* 4:8 notes that original texts, even if they are in Aramaic (such as Daniel 2–7), impart such impurity, but translations, even if they are in Hebrew (translations of originally Aramaic passages, such as those in Daniel and Ezra), do not; and concerning the requirement that a bill of divorce be delivered to the wife (*Deut* 24:1), *m. Git.* 8:1 rules that the delivery is valid if the document is thrown to her when she is in her own house even if it lands in such an external part of her house as its yard, but it is not valid if thrown to her when she is in her husband's house even if it lands very close to her ("next to her in bed").

the intelligence needed to understand the dangers of pits and avoid them.<sup>25</sup> For R. Jeremiah's symmetric explanation of the mishnah to work, the true parallel to substandard animals should have been people without intelligence—the people who, indeed, are usually denoted by the words חרש שוטה וקטן. This intensifies our surprise that those words are not allowed that meaning here.

7) *M. B. Qam.* 5:5–6 is quite lawyerly, pedantically stating both sides of the rules it offers: the pit-opener is liable if the pit is ten handbreadths deep but is exempt if it is not ten handbreadths deep, and the pit-opener is exempt if he had properly covered the pit but nevertheless an ox somehow fell into it and died, while he is liable if he had not properly covered the pit. So if the Mishnah really meant to rule that “if an ox that is deaf-mute, imbecilic, or underage fell in and died the pit-opener is liable,” it should have also stated, especially given the surprising nature of that rule, that if the animal was normal the pit-opener is exempt. But it does not—a seventh surprise.

8) Finally, over against R. Johanan's suggestion, and the Talmud's conclusion, that the Mishnah's words שור חרש שוטה וקטן mean “an ox that is deaf-mute, imbecilic, or underage,” there are two quite natural ways to read these four words as referring to an ox and—as is usual in rabbinic literature—three types of people lacking intelligence, and neither way makes informed listeners laugh. Indeed, they have both been followed by modern translators of the Mishnah. Namely:

a) If read as *status constructus*, the result is Jacob Neusner's translation: “[If] an ox belonging to a deaf-mute, an idiot, or a minor fell into it, [the owner] is liable.”<sup>26</sup> That is, in fact, the first interpretation considered in the talmudic discussion (§ 1), just as it is the way the Talmud (and everyone else) understands the exact same four words in another context (goring) earlier in this tractate (4:4).<sup>27</sup>

True, § 1 of the talmudic discussion rejects this interpretation of our mishnah (5:6), the stated reason being that it would imply the unacceptable conclusion that pit-openers are exempt from liability if the ox that fell in and died had belonged to a normally intelligent person. However, the Talmud does not say why that implication is unacceptable. Rashi explains, in his commentary (*ad loc.*), that the reason is the lack of scriptural basis for such an exemption, but that is not very convincing, given that by the end of its discussion the Talmud settles for just as broad and just as un-scriptural an exemption (for the death of normal animals). Moreover, the

<sup>25</sup> I assume, given the juxtaposition with slaves, that the “son or daughter” (= boy or girl) mentioned here are not infants; see below, n. 30.

<sup>26</sup> Jacob Neusner, *The Mishnah: A New Translation* (New Haven, Conn.: Yale University Press, 1988) 515; and *idem*, *A History of the Mishnaic Law of Damages* (5 vols.; SJLA 35; Leiden: Brill, 1983–1985) 1:74. His only comment on this mishnah is that it is “clear as given and requires little comment” (*ibid.*).

<sup>27</sup> Although some texts of *m. B. Qam.* 4:4 read שור של חרש שוטה וקטן, numerous witnesses omit של, as does the parallel at *t. B. Qam.* 4:4 (ed. Lieberman [see below, n. 51], 15). See Epstein, *Introduction*, 1:305. For other clear cases of חרש שוטה וקטן in *status constructus*, see *m. Šebu.* 6:4 and *m. Git.* 5:8.



Talmud could have read the Mishnah as *status constructus* and assumed, à la R. Jeremiah, that the Mishnah imposes liability *even* for animals owned by mentally incompetent people.

True, given the assumption, in biblical law and throughout the talmudic discussion, that even when an animal's owner is normal (and therefore could have been expected to supervise the animal) the pit-opener is nonetheless liable, it follows a fortiori that the pit-opener should be liable if the ox's owner lacks intelligence and so could not have been expected to care for the animal. Therefore, it would have been superfluous for the Mishnah to point out such liability—and that, as was pointed out to me by Robert Brody, might have been reason enough not to read the Mishnah as if it did point it out.

However, that too is hardly reason to reject the interpretation of שור חרש שוטה וקטן as *status constructus*. The fact that it is logically superfluous to state something does not mean it will not be spelled out in a legal document. On the contrary, it is very usual for lawyers and legislators to cross all the *t*'s and dot all the *i*'s in their documents,<sup>28</sup> and the Mishnah, in the adjacent context, does just that, as we saw in no. 7. Such thoroughness of coverage is especially understandable when there is some reason for the special case to receive explicit attention—some reason why, if only briefly, we might have wondered if the law is otherwise. In our case there is such a reason: as noted, the previous chapter of the Mishnah, in its discussion of goring oxen, gives at 4:4 special attention to oxen owned by deaf-mutes, imbeciles, and minors, just as 4:5 refers separately—as does the Bible itself (Exod 21:31–32)—to damages incurred by a boy or a girl, a male slave or a female slave. This special attention to such cases in nearby contexts makes it quite natural for lawyerly draftsmen to address such cases with regard to pit-falling.<sup>29</sup> In sum: I believe it is easier and more natural to read this clause as *status constructus* and consider it pedantic and superfluous than to read it, as the Talmud does, as referring to mentally incompetent animals.

b) If read as a list of four beings that lack normal human intelligence, the result is Windfuhr's translation, which opens as follows: "If an ox or a deaf-mute, an imbecile, or a minor falls in."<sup>30</sup> Although today we would have a problem with

<sup>28</sup> Compare, for example, the avoidance of pronouns by the rabbis' modern colleagues: "[Legal] draftsmen never use anaphoric links between sentences, and are prepared to put up with the repetitiveness that results. . . . And in environments in which even the most bizarre misreading would be unlikely to find an undesirable meaning, the lexical item is solemnly repeated" (David Crystal and Derek Davy, *Investigating English Style* [London: Longmans, Green and Co., 1969] 202).

<sup>29</sup> For the inclusion of our case in a long list of passages in which the Mishnah is implicitly interpreting biblical verses although not formally quoting them, see Epstein, *Introduction*, 2:1132.

<sup>30</sup> Walter Windfuhr, *Baba Qamma* ("Erste Pforte" des *Civilrechts*) (ed. Georg Beer and Oskar Holtzmann; Die Mischna 4.1; Gießen: Töpelmann, 1913) 43 ("Fällt ein Rind, ein Taubstummer, ein Geisteskranker oder ein Minderjähriger hinein"). This translation, which imposes liability for the death of a pit-falling minor but not for that of "a son or a daughter," works best according to Windfuhr's suggestion, in his translation and commentary that the Mishnah distinguishes between a very young child (here called *qatan*, "a minor"), for whom there is liability, and an older child

such a list, due to considerations of political correctness, these would not have bothered the ancient rabbis.<sup>31</sup> Whatever they felt for imbeciles, when it came to legal formulations it seems they would have been right at home in the school of the eleventh-century commentator who explained (in another halakhic context) that “the imbecile is the lowest type of person, for the only difference between people and animals is intelligence and understanding—and the imbecile, since he lacks intelligence, is considered like an animal.”<sup>32</sup>

Thus, it is clear that the Talmud’s decision to take the four words in question to mean “an ox that is deaf-mute, imbecilic, or underage” was not the only option nor the most natural one. This raises the question: What made the rabbis of the Talmud, the Amoraim, read this mishnaic text in such an unnatural way?

## ■ 2. Biblical Law between Text and Logic

As was indicated in paragraphs 5 and 6 of the preceding section, an acceptable interpretation of the first clause of our mishnaic text, which deals with pit-falling animals, should make sense in light of the second clause, which deals with pit-falling people. Accordingly, any attempt to understand why the former was read so strangely might do well to study the history of the latter.

The biblical law of pit-falling makes no reference to human victims. Moreover, as ancient readers of Exodus 21–22 must have noticed, that list of laws distinguishes strictly between damage done to people and damage done to property, dealing first with people and only thereafter with animals, and the law of pit-falling comes in the second section.<sup>33</sup> Indeed, the law of pit-falling actually opens that second section, splitting the laws of goring oxen into two: it comes between oxen that gore people (21:28–32) and oxen that gore oxen (21:35–36), thus calling attention to the move from people to property. Furthermore, along with the fact that the biblical law of

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(here called “son or daughter”), who has enough understanding to avoid pits; compare *m. Sukkah* 2:8, which contrasts the *qatan*, simpliciter, to an older “*qatan* who does not need his mother.” For the distinction between minors “with” and “without” intelligence, see also *m. Parah* 12:10 and *y. Ma’as. Š.* 4:4, 55a, and note *m. Giṭ.* 5:7–8 and *m. Nid.* 5:6: some minors are old enough for their purchases and vows to be binding. On such texts, and on later attempts to systematize the distinctions, see Moscovitz, “Actions of a Minor,” 87–109, 118–20.

<sup>31</sup> For ancient rabbinic insouciance about dealing with notionally inferior people in the same text as animals, and even in the same breath, compare, for example, *m. Qidd.* 1:1–5 (“a woman is acquired . . . a Hebrew slave is acquired . . . a Canaanite slave is acquired . . . cattle are acquired . . . real estate is acquired”) and *y. Demai* 6.3, 25c (“if one sells to another the tithes of his field, or his maidservant’s babies, or his animal’s unborn fetuses, the sale is of no effect”).

<sup>32</sup> R. Ḥananel b. Ḥushiel of Kairouan, commentary on *b. Šabb.* 153a (printed in the standard Vilna edition of the Babylonian Talmud).

<sup>33</sup> On the arrangement of the laws in Exod 21:12–22:16 according to a matrix that distinguishes between perpetrators and victims according to whether they are people or property, see Shalom M. Paul, *Studies in the Book of the Covenant in Light of Cuneiform and Biblical Law* (VTSup 18; Leiden: Brill, 1970; repr., Eugene, Ore.: Wipf and Stock, 2006) 106–11; and J. J. Finkelstein, *The Ox That Gored* (Transactions of the American Philosophical Society 71.2; Philadelphia: American Philosophical Society, 1981) 25, 37.

pit-falling refers only to animal victims, ancient readers will have noticed that v. 34 regulates the ownership of the pit-faller's corpse—and it is obvious that such a regulation cannot apply to people. Thus, from all points of view it is clear that Exod 21:33–34 imposes liability for the death of animals alone. Already Philo and Josephus recognized this point.<sup>34</sup>

If ancient readers asked why the Bible makes the pit-opener liable for animals that fall in and die but not for people who do so, the obvious answer, for them as for us, was probably the following: as opposed to animals, people have intelligence and should watch where they are going. This goes together with the general recognition that, legally or not, there are all sorts of dangerous things in public thoroughfares, and so there is a reasonable expectation that people walking about will watch their step, certainly with at least the minimum of attention needed to avoid pits so deep that falling into them can be fatal.<sup>35</sup> People who do not take such proper care are at least guilty of contributory negligence, and that relieves the pit-opener of liability (see above, n. 8). This is a natural explanation, supplied by various commentators.<sup>36</sup>

If, however, ancient readers concluded that by referring to animals but not to people the Torah expressed the principle that pit-openers are liable for the death of unintelligent beings but not that of intelligent beings, for the latter can and should watch their step, sooner or later questions will have arisen on both sides. For despite the general assumption that people have intelligence but animals do not, some people lack intelligence and, as experience shows, most normal animals avoid falling into pits. Anyone, therefore, who would follow the apparent logic of the Torah here and is willing to ignore the plain fact that Exod 21:33–34 refers only to animal pit-fallers might well make one or two moves that depart from the text of the biblical law: such an authority might on the one hand deny liability when a normal animal falls into a pit and dies, and/or on the other hand impose liability when a person lacking intelligence falls in and dies. Indeed, talmudic law did make the former move; that, and especially the strange way in which it is phrased, was the point of departure of our discussion. It seems, however, that that move, which abrogated liability for

<sup>34</sup> Philo, *Spec. Laws* 3.147–148 (he states that the law *requires* compensation for the death of pit-falling cattle but only *allows* suits in case of people); Josephus, *Ant.* 4.283–284 (although he states that those who open pits are required to close them so that people will not fall in, he mentions compensation for dead animals only).

<sup>35</sup> I add that qualification in deference to the mishnaic law (*B. Qam.* 3:1) that imposes, upon those who dig small pits or leave small objects in the public domain, liability for damage to passers-by, for it is presumed that people often do not notice such small things and therefore those who leave them are responsible. But people are expected to see deep pits and avoid them.

<sup>36</sup> See, e.g., Meir Simḥah Hacoen (d. 1926) on Exod 21:33: “The rule (that there is liability for) an ox but not for a person . . . is a rational matter, for a person is intelligent enough to protect himself from a pit that is capable of killing a person” (*Meshekh Hokhmah* [3 vols.; 3rd ed.; Jerusalem: Frank, 1996/1997] 1:189–90 [Hebrew]). For medieval formulations of this logic, see Albeck, *General Principles*, 153. For a formulation in terms of the “duty of due care” (Fleming, *Law of Torts*, 135–90), see Avishalom Westreich, “Hermeneutics and Developments in the Talmudic Theory of Torts as Reflected in Exceptional Cases of Exemption” (Ph.D. diss., Bar-Ilan University, 2007) 245–46 [Hebrew].



the pit-falling death of normal animals, was only a secondary development after a change in the law concerning people, to which we shall now turn.

*2a. Tannaitic Law Imposed Liability for the Pit-Falling Death of People Who Lack Intelligence*

It would not be surprising if the early rabbis indeed took such a position. After all, they had no trouble in generalizing “pit” into any stationary obstruction in the public domain<sup>37</sup> and “ox or ass” into any animal,<sup>38</sup> so why should they not have generalized animals into “beings without intelligence” and included such people too?<sup>39</sup>

In fact, it seems that the Tannaim of the first two Christian centuries did impose such liability.<sup>40</sup> That this seems hitherto to have gone unnoticed is testimony to the skill of the interpreters and copyists who, as we shall now see, neutralized the original versions of all three *baraitot* (extra-mishnaic tannaitic texts) cited in the Babylonian Talmud’s discussion of our mishnah, of which my translation is offered in the appendix.<sup>41</sup>

According to the first *baraita* cited by the Talmud (§ 4 [נפל לחוכו בן דעת פטור]), “if an intelligent being fell into it, he [the pit-opener] is exempt.” This clearly means the governing criterion for exemption is the intelligence of the pit-faller and so implies liability for the death of mentally incompetent people. The Talmud evades

<sup>37</sup> See *m. B. Qam.* 5:5: “No matter whether he digs a pit, trench or cavern or ditches or channels, he is liable”; also *ibid.* 1:1 (where a “pit” is a stationary danger in the public domain) along with *b. B. Qam.* 3a (to the effect that people who leave such things as stones, knives, and luggage in the public domain are considered to be pit-openers).

<sup>38</sup> *M. B. Qam.* 5:7: “There is no difference between an ox and any other type of animal with regard to pit-falling . . . so why does it say ‘an ox or an ass’? Because Scripture speaks of common cases.” Compare, for example, the decisions of British courts to extend to workers in hotels and film studios rights granted by law to workers in “shops” and “factories,” respectively, although in common usage neither term is used of such a workplace (see Rupert Cross, *Statutory Interpretation* [ed. John Bell and George Engle; 3rd ed.; London: Butterworths, 1995] 120) and a 1989 decision by a U.S. Circuit Court of Appeals (*Hasbro Industries, Inc. v. U.S.*, 879 F.2d 838 [Fed.Cir. 1989]) that an importer must pay the duty assessed for “dolls” for “G.I. Joe Action Figures,” although in common usage they are not called “dolls.”

<sup>39</sup> On such generalizing conceptualization of the particulars mentioned in biblical law, see Leib Moscovitz, *Talmudic Reasoning: From Casuistics to Conceptualization* (TSAJ 89; Tübingen: Mohr Siebeck, 2002) 37–38, 161–62; and Jeffrey L. Rubenstein, “On Some Abstract Concepts in Rabbinic Literature,” *JSQ* 4 (1997) 33–73, esp. 67–69 on pits.

<sup>40</sup> We may leave aside the question whether that liability entailed compensation (and what compensation might have been thought appropriate for the death of an economically worthless person) or, rather, only moral guilt.

<sup>41</sup> Although at times there is room to suspect that a text cited in the Talmud as a *baraita* is in fact of amoraic origin (Goldberg, “The Babylonian Talmud,” 334–35), the tannaitic origin of the third is guaranteed by the appearance of a parallel in the Tosefta (see below, n. 50). As for the first two, I assume that they too are of tannaitic origin (whatever editing they later underwent, as we shall see), not only because they are cited as such (*tanya*) but also because, like the third *baraita*, they too stand in the way of the conclusion the Talmud strives to establish, so it is likely that they were inherited from an earlier era.

that implication by insisting, in §§ 5–6, that the *baraita* refers to the species that is intelligent, namely, the human species—including all of its members, even the exceptional ones who lack intelligence. However, the words “an intelligent being” do not indicate such an inclusive interpretation. Indeed, if all that is meant were “if a person fell in” the pit-opener is exempt, why did the *baraita* not say just that, using *adam* (“a person”), as is so usual?<sup>42</sup>

The second *baraita* (§ 7) too was subjected to similarly heavy-handed interpretation, and to emendation as well. It states that the pit-opener is exempt if the one who fell in and died was *אדם ובן דעת*, and the Talmud apparently puts a great deal of weight upon the conjunction, as if it means that the two terms are not equivalent; it takes the text to refer to “a person or someone else with intelligence.” That understanding of the text allows the Talmud to conclude that this *baraita* means that the pit-opener has no liability for two types of pit-fallers who died: all people, and those animals that have normal mental capacity. It is this text, on that interpretation, that clinches the debate of this issue in the Talmud’s discussion. However, the *baraita* does not mention animals, and *אדם ובן דעת* is a strangely vague way to say “a person, or an animal that has intelligence.” In fact, the conjunction need not bear all the weight the Talmud assigns to it, for these three Hebrew words could easily mean “a person who is one who has intelligence,” just as, for example, earlier in this tractate the Mishnah (1:3) rules that witnesses must be *בני חורין ובני ברית*;<sup>43</sup> although literally that translates into “free people and (or: or) Jews,” it obviously means “free people who are Jews.”<sup>44</sup> When applied to our *baraita*, this reading, which is quite natural,<sup>45</sup> means that the pit-opener is not liable if an intelligent person falls into the pit and dies. That the Talmud’s understanding of this text as referring to people and other intelligent beings is quite unnatural, already suggested by the fact that “nowhere else do we find an ox termed a *ben da‘at*,”<sup>46</sup> is shown by the stunning datum that although the text as cited above (*אדם ובן דעת*) is the reading found in all manuscripts, the printed versions all have, instead, *שור* *בן דעת*.<sup>47</sup> That is, according to the printed versions the *baraita* says the pit-opener

<sup>42</sup> In *m. B. Qam.* alone, *adam* appears fifteen times.

<sup>43</sup> For the text (some witnesses omit the conjunction between the two, while many others include it), see Epstein, *Introduction*, 2:1061.

<sup>44</sup> For similar cases see, for two examples, *m. Yebam.* 11:5, where *נשים וראויות לכהונה* means “women who are allowed to marry priests,” and *m. Mak.* 3:1, where *אלמנה וגרושה* means “a widow who is divorced.” See also Epstein, *Introduction*, 2:1076–1110, esp. 1090, on cases such as the variation among witnesses to *m. Qidd.* 3:13 (*עבד ומזמר* and *עבד מזמר*) and various texts where witnesses offer both *גר וחושב* and *גר וחושב*, although in both cases clearly only one person is meant.

<sup>45</sup> As noted by Halivni, *Sources and Traditions*, 221. See esp. Moshe Azar, *The Syntax of Mishnaic Hebrew* (Jerusalem: Academy of the Hebrew Language and University of Haifa, 1995) 273–74 [Hebrew] on the “relative *vav*, which opens a limiting relative clause that limits the extent of the preceding noun.”

<sup>46</sup> See n. 14 above.

<sup>47</sup> As Raphael Rabinovicz pointed out in his *Diqduqei Soferim* ad loc.: *Variae lectiones in Mischnam et in Talmud Babylonicum* (16 vols.; Munich: Huber, 1867–1897) 12:116–17 n. 50 [Hebrew].

is not liable for the death of “an intelligent ox.” Evidently, someone along the line, no later than the late fifteenth century, realized that the talmudic interpretation of *אדם ובן דעת* was unconvincing, so if this *baraita* is supposed to refer to intelligent oxen its text had better be emended.

Finally, after clinching its point in § 7 on the basis of that forced interpretation of the second *baraita* and seconding it in § 8 with a statement by Rava (a Babylonian sage of the fourth century) that makes the conclusion explicit by stating both parts of the law (the pit-opener is liable for the death of a mentally deficient ox but not for the death of a mentally normal ox), the Talmud now confirms its conclusion by citing a third *baraita*, which has the same two clauses as Rava’s statement. However, as Judith Hauptman has noted, this *baraita* seems actually to be the same one quoted by the Tosefta (*B. Qam.* 6:14, discussed in our next paragraph)—but in the Tosefta’s version, which presumably is more pristine, the second clause contrasts the mentally deficient animal of the first clause (if indeed that is what that clause means!) not, as in the Talmud’s version, with a mentally normal animal, but, rather, as in our mishnah (5:6), with *people* of limited legal status (sons, daughters, and slaves). That is: Even if (!) this *baraita* meant to underscore that there is liability for mentally deficient animals, it did not, originally, deny such liability for normal animals; there was, originally, nothing in it that excluded R. Jeremiah’s assumption that liability for the pit-falling death of normal animals was taken for granted. If the *baraita*’s current text nevertheless excludes such liability, it seems, as Hauptman noted, that “in the course of time, part of Rava’s memra [statement—DRS], ‘an ox of normal intelligence—the owner [of the pit] is exempt’ was tacked on to the *baraita* as a second clause.”<sup>48</sup> The very fact that whoever was responsible for the

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The data were kindly confirmed for me in September 2009, by the librarian of the Complete Israeli Talmud at Yad Harav Herzog in Jerusalem, David Aronovsky (who uttered an Israeli equivalent of “wow” when he saw, in the project’s archives, the full documentation of this discrepancy between the manuscripts and the printed versions). The Florence, Hamburg, and Munich manuscripts, which read *אדם ובן דעת*, may easily be viewed at <http://jnul.huji.ac.il/dl/talmud/>. Printed editions that give the “corrected” version include the first two: Soncino 1490 and Venice 1520/1521 (kindly checked for me, respectively, by Vered Noam and Harry Fox); the latter edition may well have been based directly upon the former (see Marvin J. Heller, “Earliest Printings of the Talmud,” in *Printing the Talmud: From Bomberg to Schottenstein* [ed. Sharon Liberman Mintz and Gabriel M. Goldstein; New York: Yeshiva University Museum, 2005] 61–78, at 74). Note that by “clarifying” that the second *baraita* refers to normal animals, the corrector(s?) made the third *baraita* (cited in § 8) superfluous.

<sup>48</sup> Judith Hauptman, *Development of the Talmudic Sugya: Relationship between Tannaitic and Amoraic Sources* (Studies in Judaism; Lanham, Md.: University Press of America, 1988) 167–68. So too Halivni, *Sources and Traditions*, 221. Hauptman also argues (*ibid.*) that had § 8’s version of the latter part of this *baraita* been authentic, it would have precluded the contrary suggestions made by Amoraim earlier in the discussion. Levine too argues that the material in § 8 is secondary, even suggesting that the Rava mentioned there is not (as is usually assumed) the well-known fourth-century Amora but, rather, a later, Saboraic, sage (*Studies in Talmudic Literature*, 158). More generally, see also Hauptman, *Talmudic Sugya*, 217: she reports that such editing of *baraitot* on the basis of amoraic statements is demonstrable in twenty-seven of 100 cases she studied and is probable in many others too. For a later study that demonstrates in detail that the Babylonian Talmud frequently edited *baraitot* to conform to its needs, see Shamma Yehuda Friedman, “The



current version of the *baraita* in § 8 felt the need to emend its text, in order to make explicit the denial of liability for the death of normal oxen, implies that that person (who certainly knew rabbinic Hebrew!) thought the original text of the *baraita* did not imply such a denial.

We can, it seems, go a step further and show that this third *baraita* underwent yet another stage of revision. Hauptman's analysis of this *baraita* was based upon the text of the passage in Zuckerman's edition of the Tosefta, which follows the Erfurt manuscript: נפל לחוכו שור חרש שוטה וקטן, שור סומא המהלך בלילה חייב; בן עבד או אמה, פטור; או בת, עבד או אמה, פטור; following R. Johanan's interpretation of the Mishnah, that means: "If an ox that is deaf-mute, imbecilic, or underage, or a blind ox [or]<sup>49</sup> one that walks about at night fell into it [and died, the pit-opener is] liable, [but if the one who fell in was] a son or daughter, a slave or slave-woman—he is exempt."<sup>50</sup> However, the same year that Hauptman's volume was published, Lieberman's edition of the Tosefta appeared, based upon the Vienna manuscript, and it mentions "ox" only in the middle of the list: נפל לחוכו שור חרש שוטה וקטן שור . . . סומא ("if a deaf-mute, an imbecile, or a minor, or a blind ox fell into it . . .").<sup>51</sup> The natural interpretation of this text is that the first three mentally deficient pit-fallers mentioned are, as usual in rabbinic literature, types of people, and the pit-opener is liable for their death. True, in his notes on this passage Lieberman states his preference for reading with the opening שור. However, Lieberman's only argument in support of that Erfurt reading here is the fact that it agrees with talmudic law.<sup>52</sup> That is quite a surprising argument given the fact that, as Lieberman himself noted in several other contexts, the Erfurt manuscript was frequently emended to bring it into line with the Babylonian Talmud.<sup>53</sup> Lieberman's position in this case thus

*Baraitot in the Babylonian Talmud and Their Relation to the Parallels in the Tosefta*," in *Atara L'Haim: Studies in the Talmud and Medieval Rabbinic Literature in Honor of Professor Haim Zalman Dimitrovsky* (ed. Daniel Boyarin et al.; Jerusalem: Magnes, 2000) 163–201 [Hebrew]. For an additional case of this in *b. B. Qam.*, see Vered Noam, "The Later Rabbis Add and Innovate": On the Development of a Talmudic *Sugya*," *Tarbiz* 72 (2002/2003) 151–75, esp. 168 n. 67 [Hebrew].

<sup>49</sup> I have inserted this "or," as it seems to be required; in the talmudic version of this *baraita* (§ 8), it indeed appears.

<sup>50</sup> *Tosefta Based on the Erfurt and Vienna Codices with "Supplement to the Tosefta"* by S. Lieberman (ed. Moses Samuel Zuckerman; 2nd ed.; Jerusalem: Bamberger and Wahrman, 1937) 355. This is the text quoted by Hauptman, *Talmudic Sugya*, 167.

<sup>51</sup> *Order Nezikin* (unnumbered volume of *The Tosefta*; ed. Saul Lieberman; New York: Jewish Theological Seminary of America, 1988) 23. The same text appears in the Tosefta supplied in the back of the standard Vilna edition of the Babylonian Talmud.

<sup>52</sup> See Lieberman's brief note to line 28 in his edition cited in the preceding note, as well as his longer comment in the companion volume: idem, *Parts IX–X: Order Nezikin* (unnumbered volume of *Tosefta Ki-Fshutah*; New York: Jewish Theological Seminary of America, 1988) 54, note on lines 27–28 [Hebrew].

<sup>53</sup> See, for example, on *t. B. Qam.* 7:18, Lieberman, *Parts IX–X: Order Nezikin*, 78, note on lines 87–89: "And it is most likely that this was emended in accordance with the Babylonian Talmud, as is usual in this manuscript." On this widespread phenomenon in MS Erfurt, with numerous references to Lieberman's own findings (including the one just now cited), see Yaakov Sussmann, "The Ashkenazi *Yerushalmi* MS—'Sefer Yerushalmi'," *Tarbiz* 65 (1995/1996) 37–63, at 61–62 n.

appears strangely harmonistic and conservative. Rather, from the point of view of historical philology the fact that the Vienna manuscript disagrees with accepted talmudic law is a point in its favor, as the *lectio difficilior*—just as, in general, the Vienna manuscript is usually preferred. So just as Hauptman pointed out that the second clause of this third *baraita* underwent revision on the basis of Rava's statement, so too, it seems, its opening clause was revised in order to exclude liability for the pit-falling death of people who lack intelligence. That liability, however, was—as we saw—also imposed, originally, by the other two *baraitot* cited in *b. B. Qam.* 54b.

## 2b. So Did the Mishnah<sup>54</sup>

Since the three tannaitic texts discussed in the preceding section imposed liability for the pit-falling death of people who lack intelligence, it is likely that the Mishnah did too. This brings us back to the two interpretations set forth above in part 1, no. 8: that the Mishnah refers either to pit-falling animals owned by three types of people who lack intelligence or to four types of pit-fallers that lack intelligence—an ox and three types of people.

According to the latter interpretation, our mishnah explicitly imposes liability for the pit-falling death of people who lack intelligence.<sup>55</sup> As for the former explanation—which has our mishnah clarify that one is liable even for animals whose owners lack intelligence but not for people even if they are of less than full legal status—it does not address the issue. But given the fact that the most liminal people it mentions in its second clause are those who lack full legal status (children and slaves), saying nothing about people who lack intelligence,<sup>56</sup> it allows, and might even take for granted, the imposition of liability that we found in the tannaitic texts discussed in part 2a.

166 [Hebrew]; and Adiel Schremer, "The Text-Tradition of the Tosefta: A Preliminary Study in the Footsteps of Saul Lieberman," *Jewish Studies, an Internet Journal* 1 (2002) 11–43, at 14 n. 10 [Hebrew], <http://www.biu.ac.il/JS/JSIJ/1-2002/Schremer.pdf>. See also Shamma Friedman, *Tosefta Atiqta Pesah Rishon: Synoptic Parallels of Mishna and Tosefta Analyzed with a Methodological Introduction* (Ramat Gan: Bar-Ilan University, 2002) 79–86 [Hebrew].

<sup>54</sup> For special discussions of our mishnaic text, apart from the commentaries, see above, n. 23.

<sup>55</sup> The inclusion of an ox at the head of this list of three people poses a problem for this interpretation, for the preceding clause of the Mishnah assumes liability for pit-falling oxen so there is no need to repeat that here. To deal with that we would either simply accept the pedantic repetition, or interpret it as the author's way of clarifying that the category has to do with lack of intelligence, or imagine a source-critical solution (the text was imported from elsewhere without coordination with the new context) or text-critical solution (the word שׁוֹר ["ox"] at the head of the list was added secondarily). With regard to the last possibility, note that the text of the Mishnah in MS Munich 95 omits the word, although the talmudic discussion there assumes it.

<sup>56</sup> See above, n. 30.

### ■ 3. What Changed in the Talmud? Back to the Biblical Text

Why did things change in the Talmud? Why did the Amoraim abandon the rule that a pit-opener incurs liability if a mentally deficient person falls in and dies? What was it that generated such thorough manhandling as we saw in part 2: Amoraim manhandling the Mishnah and also the *baraitot* in § 4 and § 7 and copyists helping to neutralize the *baraitot* in §§ 7–8?

I see no alternative to accepting what the Talmud itself adduces as its fundamental motivation here: the need to avoid contradicting what was taken to be the fiat of Scripture. Namely, in § 6 the Talmud rejects the possibility that the words “If an intelligent being [בן דעת] fell into it the pit-opener is exempt” refer to intelligent people, for that reading would imply that the pit-opener is liable if a person lacking intelligence fell in and died, an implication that contradicts what it cites as a scriptural rule: שור ולא אדם כתיב (“it is written [in Exod 21:33–34]: ‘an ox,’ [meaning:] ‘and not a person’”). This is not presented as lemma-cum-explanation, as a midrash, but as if it were a plain citation of a biblical verse. Note the failure to use any exegetical terminology or otherwise to argue on behalf of the interpretation; the rule is presented as something of the same finality and givenness as the Bible itself. Were it not for our familiarity with the Bible we would probably translate and punctuate the four Hebrew words as “it is written: ‘An ox and not a person,’” and then fruitlessly search our concordances for such a biblical verse. It is, however, obvious that the rabbis who quoted this “verse,” as other similar “verses,”<sup>57</sup> knew that they were not all biblical, so what their manner of citation really means is an insistence that we adhere strictly to the letter of the biblical law. It was this stance that forced the Talmud, so as to avoid going beyond Scripture, to claim that when the first *baraita* denies liability for an “intelligent being” it means “(member of) the intelligent species,” that is, any person, even one without intelligence.

But if it was literal adherence to the biblical text that led the Amoraim to deny liability for the pit-falling death of any person, from a historical point of view it is important to note with Abraham Goldberg that, although the rule “‘an ox’ and not a person” appears three more times in *b. B. Qam.* (28b; 53b; 54a), it is not found anywhere in tannaitic literature.<sup>58</sup> This finding, that literal adherence to this

<sup>57</sup> Such as *b. Sukkah* 33a, “a booth—of which it is written *you shall make (one)*, not (use) one that is already made”; and *b. Abod. Zar.* 54a, “when Scripture specified *and he shall live by them* and not die by them.” In these cases only the italicized words are actually in the Bible (Deut 16:13 and Lev 18:5, respectively), but in citing what is “written” the Talmud, whether oral or written, does not distinguish at all between text and interpretation.

<sup>58</sup> Abraham Goldberg, *Tosefta Bava Kamma: A Structural and Analytic Commentary with a Mishna-Tosefta Synopsis* (Jerusalem: Magnes, 2001) 125 [Hebrew]. Note that the other three times the rule appears in *b. B. Qam.*, it is complemented by yet another literalist exclusion: “‘An ass’ and not its *kelim*” (trappings or containers, i.e., things it bears). As Goldberg and others note, tannaitic sources do include something similar to the second half of that amoraic rule: if an animal falls into a pit and its trappings were torn or the vessels it was carrying broke, there is liability only for the animal, not for what it had borne. Whatever the reason for that law (probably resistance to imposition of all the onus on one side; see above, nn. 7–8), and whatever its extent (does it deny



biblical text first appears in the post-tannaitic period, dovetails perfectly with my demonstration above that the earlier, tannaitic, law indeed did impose liability in the case of some human pit-fallers: the ones who lack intelligence.

Moreover, it also dovetails perfectly with the work of other scholars who have pointed to a rabbinic turn to the Bible in other ways in the same general period—the days of the late Tannaim and the Amoraim (ca. third–fifth centuries C.E.). I will cite three complexes of relevant evidence.

First, Benjamin de Vries and Yitzhak D. Gilat have pointed out that although the categories “Torah law” and “rabbinic law” existed in the tannaitic period, they became much more popular and strictly defined later on: laws that had previously been thought to be of biblical authority were recognized, late in the tannaitic period and in the amoraic period, as being of merely rabbinic origin.<sup>59</sup> That indicates the intensification of a scholastic process: the concern to distinguish between sources of law. It is obvious that clearer recognition of the fact that some laws are of biblical authority while others are only of rabbinic authority would intensify the pressure to make sure the latter did not contradict the former.

Correspondingly, Gilat and, in his wake, Christine Hayes, have noted that tannaitic laws and edicts (*taqqanot*) that had been tolerated although they contradicted the Pentateuch were now brought into line with it, especially in the Babylonian Talmud, either with the aid of imaginative biblical exegesis that demonstrated that they were, in fact, themselves of biblical origin or by imaginative exegesis of the tannaitic law in order to eliminate the contradiction.<sup>60</sup> The development we are attempting to understand amounts to an impressive instance of the latter.

Finally, the rule that mere logic, even if as cogent as an argument *a fortiori*, is not a sufficient basis for the imposition of punishment if no biblical verse imposes it explicitly, became accepted, as Chanoch Albeck observed, “in the days of the

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liability even when only the burden was damaged?), when the Talmud juxtaposed to it the denial of liability for the death of any person (which derived from a totally different consideration: people can and should watch their steps), the result was a natural tendency to assume that both derive from the same reason. For details of this process, see Westreich, “Hermeneutics and Developments,” 243–58. That shared reason could only be either the simple fact that Scripture mentions neither people nor burdens, or, perhaps—as is explicit in *t. B. Qam.* 6:14 (ed. Lieberman [above, n. 51], 23)—the inference, from the fact that broken vessels cannot be used just as human corpses may not be used (see above, n. 5), that the existence of a rule in Exod 21:34 about the disposition of what remains after the fall means the law of pit-falling does not apply to vessels just as it does not apply to people. Neither of these shared explanations suggests any reason to distinguish between people with and without intelligence.

<sup>59</sup> See Benjamin de Vries, *Studies in the Development of the Talmudic Halakah* (2nd ed.; Tel Aviv: Zioni, 1966) 69–95 [Hebrew]; Yitzhak D. Gilat, *Studies in the Development of the Halakha* (Ramat Gan: Bar-Ilan University, 1992) 239–48, 279–80 [Hebrew].

<sup>60</sup> Gilat, *Studies in the Development*, 191–204; Christine Hayes, “The Abrogation of Torah Law: Rabbinic *Taqqanah* and Praetorian Edict,” in *The Talmud Yerushalmi and Graeco-Roman Culture* (ed. Peter Schäfer; 3 vols.; TSAJ 71, 79, 93; Tübingen: Mohr Siebeck, 1998–2002) 1:643–74. Cases of this type are cited above, at nn. 4–5.

last Tannaim.”<sup>61</sup> And if then it was born only as an exegetical rule, explaining why the Bible said things explicitly that we could have inferred logically,<sup>62</sup> it had the potential to block the adoption or maintenance of laws proposed only on the basis of logic, and in the Talmud it indeed functions that way.<sup>63</sup> Accordingly, a law that depended upon logic alone to justify the demand of compensation for damages (which, like punishments, entails invasion of an individual’s rights and property), beyond what the Bible ordained, would be hard put to maintain itself in the Talmud.

Such moves back toward the Bible, in the late tannaitic period or amoraic period, reflect a more basic change in the attitude toward law: from a position that built on logic together with a relatively loose and “purposive” attitude toward biblical law to one that demanded more adherence to the details of the biblical text.<sup>64</sup> This was part of a broader development among the rabbis, as recent scholars have shown. Thus, Paul Mandel has shown that prior to the Tannaim the Pharisees dealt primarily with law, not with text, the move to text coming in the second century.<sup>65</sup> Similarly, Aharon Shemesh has delineated, in the transition from early to late tannaitic literature, a move from a view of “commandments” (*mitzvot*) as actions that one is to do or to abstain from doing to a view of them as texts to be obeyed.<sup>66</sup> Indeed, this general tendency to move from scriptural law as law to scriptural law as text, which is fundamentally an aspect of the professionalization of law and lawyers,<sup>67</sup> was to have a life of its own in the talmudic period, when regarding the mishnaic text as well the same textual approach could be applied.<sup>68</sup>

<sup>61</sup> Chanoch Albeck, *The Mishnah: Seder Nezikin* (Jerusalem: Mosad Bialik, 1988) 463 [Hebrew].

<sup>62</sup> See especially Shelomo Naeh, “A Study of *m. Makkot* 1:4–6 and Its Talmud,” in *Neti’ot Ledavid: Jubilee Volume for David Weiss Halivni* (ed. Yaakov Elman, Ephraim Bezael Halivni, and Zvi Arie Steinfeld; Jerusalem: Orhot, 2004) 109–25, at 123–24 n. 38 [Hebrew].

<sup>63</sup> See, for example, *b. Mak.* 5b (the text on which Naeh’s study focuses). On this rule (אין עונשין מן הדין) and its ramifications, see *Encyclopedia Talmudica* (6 vols. to date; Jerusalem: Yad Harav Herzog, 1969–) 2:111–18. Note that the rule applies especially to penalties because in imposing them society undertakes to encroach upon an individual’s rights and/or property—something for which a very solid foundation is required. Similarly, British common law demands that not only penal statutes but also tax statutes be interpreted narrowly, which means that demands cannot be made unless the law states them explicitly; see Gerald Dworkin, *Odgers’ Construction of Deeds and Statutes* (5th ed.; London: Sweet and Maxwell, 1967) 366, 464.

<sup>64</sup> On the tension, for the interpreters of law, between adherence to a law’s purpose and adherence to its text, see, in general, William D. Popkin, *Statutes in Court: The History and Theory of Statutory Interpretation* (Durham, N.C.: Duke University Press, 1999). For a classic discussion, see Felix Frankfurter, “Some Reflections on the Reading of Statutes,” *Columbia Law Review* 47 (1947) 527–46.

<sup>65</sup> A conclusion that has everything to do with correcting misunderstandings of the term *soferim* (scribes) and the verb *darash*, along with the pervasive German mistranslation of *hakhamim* (sages) as *Schriftgelehrte*. See Paul Mandel, “Scriptural Exegesis and the Pharisees in Josephus,” *JJS* 58 (2007) 19–32, and, in general, his forthcoming *Text, Law, and the Origins of Midrash*.

<sup>66</sup> Aharon Shemesh, “The Development of the Terms ‘Positive’ and ‘Negative’ Commandments,” *Tarbiz* 72 (2002/2003) 133–50 [Hebrew]. As Shemesh shows, this change resulted in the proliferation and articulation of law.

<sup>67</sup> See Gilat, *Studies in the Development*, 280.

<sup>68</sup> See David Henschke, “Abbaye and Rava: Two Approaches to the Mishna of the Tannaim,”

Taken together, these two trends—return to the Bible and interpretation of the text of biblical law, not only of its sense and purpose—engendered, as the rabbis moved into the late tannaitic period and the amoraic period, a need to ground received laws in the letter of the Bible.<sup>69</sup> That was, of course, especially needed in cases in which the received laws seemed to contradict the letter of the Bible. As noted above, often this could happen via imaginative exegesis of the biblical text. At times, however, that could not deliver the goods—and in those cases it would become imperative to revise or even to abandon the received law.

In our case, which is of the latter type, the decision to back away from imposing liability in cases in which the Bible did not mandate such liability created a fascinating problem, because the previous approach had already been ensconced in texts—tannaitic texts. Those texts, as we see in the Mishnah and in the other texts discussed in part 2, had introduced, into the laws of pit-falling, the distinction between normal people and people without intelligence, termed “deaf-mutes, imbeciles, and minors.” What were the rabbis to do with these words when they decided to adhere to the now notionally biblical principle of “‘an ox’ and not a person” that denied the relevance, in the context of pit-falling, of such distinctions among people? Since, unlike justices of the Supreme Court or polemical sectarians, they could not simply rule that their predecessors had erred, they had to reinterpret either the Bible or the words of their predecessors. Since the biblical text (as opposed to its logic) gives no opening for the view that some people are to be treated as oxen, the other route was chosen: the words *חרש שוטה וקטן*, which had originally functioned, as usual in rabbinic literature, as substantives denoting types of people, were forced to become, instead, adjectives describing certain oxen.<sup>70</sup>

This, therefore, appears to be the genesis of the surprising formulation of the law with which we began. The need to abrogate a law pertaining to people made words pertaining to people superfluous, but, since they could not be erased or ignored, they were put to work in the law pertaining to animals. The fact that the ensuing formulation is so unnatural is a result of, and witness to, the fact that originally the words functioned very differently.

*Tarbiz* 49 (1979/1980) 187–93 [Hebrew]. As Henschke phrases the matter (in the English abstract, p. x), the issue is whether the Mishnah is “merely a receptacle for halakhic material” or rather “a sanctified text which may be submitted to exegesis.”

<sup>69</sup> On such (re)turns from traditional behavior to the demands of the biblical text and on what they entail see Adiel Schremer, “‘[T]he[y] did not read in the sealed book’: Qumran Halakhic Revolution and the Emergence of Torah Study in Second Temple Judaism,” in *Historical Perspectives: From the Hasmoneans to Bar Kokhba in Light of the Dead Sea Scrolls; Proceedings of the Fourth International Symposium of the Orion Center for the Study of the Dead Sea Scrolls and Associated Literature*, 27–31 January, 1999 (ed. David Goodblatt, Avital Pinnick, and Daniel R. Schwartz; STDJ 37; Leiden: Brill, 2001) 105–26. Schremer builds on the observations on modern Jewish Orthodoxy offered by Haym Soloveitchik, “Rupture and Reconstruction: The Transformation of Contemporary Orthodoxy,” *Tradition* 28 (1994) 64–130.

<sup>70</sup> This may have entailed adding an explicit reference to the ox; see above, n. 55.



However, while this explains how it happened that the Talmud came to apply, to oxen, adjectives that normally apply to people and make little sense in connection with animals, it does not explain why the Babylonian Talmud decided to limit the law to such subnormal animals. Why not follow R. Jeremiah's position, that the law of course applied to all animals but the Mishnah specifies the abnormal animals for otherwise we might think the law about them is different?<sup>71</sup> Here, it seems, some attention to the identity of the participants in the talmudic debate will be useful.

As noted in part 1 (no. 4), the interpretation of the Mishnah as referring to mentally deficient animals is ascribed to R. Johanan or his contemporary, R. Eleazar; both of these Palestinian sages are said to have died in 279 C.E. Their view, however, need mean only that the Mishnah specified this special case, not that the law is limited to it, and such a minimalist position was in fact defended by R. Jeremiah, who lived in Tiberias a few decades later, early in the fourth century. In contrast, the talmudic discussion shows that, in Babylonia, Rava taught that the law should be limited to the special case of mentally deficient animals, and R. Aḥa of Diphti pushed to have that view accepted. Rava was more or less a contemporary of R. Jeremiah, but R. Aḥa of Diphti lived a century later, in the fifth century.<sup>72</sup> This suggests that we should reconstruct a two-step process.

First, third-century sages, in Palestine, in line with the late-tannaitic biblicizing trend described above, made the basic move: in order to avoid overstepping the Bible, they adopted an outlandish and even amusing reading that turned *חרש שומע וקטן* from substantives denoting people into adjectives (“deaf-mute, imbecilic, or underage”) applied to oxen. But in this first stage no more was meant than the clarification that there is liability even for such oxen. Once that move had been accomplished, however, over the next few generations Babylonian sages reaped the fruit of it by building upon it to revise the law according to their experience and notions of fairness. Namely, human experience indicates that normal animals usually avoid pits, and therefore human notions of fairness indicate that pit-openers should not be held liable for damages for the fluke occurrence when some normal animal nevertheless falls in. Hitherto, however, biblical law had imposed such liability. Now, however, the new distinction between normal and subnormal oxen, created as a by-product of the elimination of the law about people, allowed the Amoraim to revise the law regarding animals too, and to assert, coming closer to what fairness demands (see n. 11), that the biblical law applies only to subnormal animals.

### *3a. The Low Cost of the Change*

Apart from explaining how and why a text that imposed liability for the pit-falling death of some people turned first into a text that clarified that there is liability even for the pit-falling death of subnormal animals and, eventually, into one that clarifies

<sup>71</sup> For the suggestion that Palestinian literature indeed took that position, see above, n. 23.

<sup>72</sup> See Albeck, *Introduction*, 443, where it is noted that all of his statements in the Talmud are, as in our case, questions he posed to Rabina.

that there is liability only for the pit-falling death of subnormal animals, it remains to be noted that adoption of these changes was facilitated by the fact that neither cost much. The families of pit-falling deaf-mutes, imbeciles, or minors would not have received much compensation for such economically worthless individuals, and, as for normal animals—since they only rarely fall into pits, abrogation of compensation for them would not matter much. It is likely that, had the value of adhering to the Bible, or to what human experience and fairness indicated about animals, needed to compete with economic interests, the results would not have been so clean-cut or so readily accepted.

## ■ Conclusion

In summary, I have suggested that the surprisingly formulated rabbinic law that limits liability for the death of pit-falling oxen to animals that were mentally deficient is the by-product of the following process:

1) Biblical law imposed liability for the pit-falling death of animals alone, making no distinctions among them.

2) Ancient Jews inferred that the reason for the restriction was that, as opposed to people, animals are not intelligent and therefore cannot be expected to understand the danger posed by the pit. This, by analogy, implied pit-openers should also be liable for the death of people without intelligence—as is declared by the original text and sense of the four tannaitic texts studied in part 2.

3) When, in the context of a later biblicizing swing of the pendulum (observable in other late tannaitic and amoraic contexts as well), the Amoraim decided they were not allowed to impose liability for any pit-falling people since the Bible so clearly abstains from referring to people in this connection, they had to deal with the texts that had previously been formulated. However, unlike biblicizing Protestants of the sixteenth century who could simply reject traditional Catholic departures from “*sola Scriptura*” as sinful, and unlike Supreme Court justices who can simply reject departures from the Constitution by legislatures or lower courts as erroneous, the Amoraim could not simply reject the laws of their revered predecessors, the Tannaim. All they could do, when they noticed that the Torah contradicted tannaitic statements, was reinterpret the former or the latter or edit the text of the latter. In our case, the Amoraim radically reinterpreted the Mishnah and, with the help of tradents and copyists, brought some other tannaitic sources into line. The result was that words that originally distinguished among types of people, contrary to the Bible, were made to refer to animals.

4) The introduction of these distinctions among animals allowed the rabbis, in a secondary step, to limit the liability for the pit-falling death of animals to cases in which the animal had been subnormal or unable to see the pit—thus relieving pit-openers of liability for the death of normal animals, which, as Maimonides noted (n. 9), they cannot, in all fairness, be expected to foresee.

As for why they chose to resolve the problem the way they did, reinterpreting the Mishnah rather than the Bible, we made two suggestions. First, the fact that

biblical law unambiguously left people out of its purview meant there was no way the problem could be solved by *'uqimta*, by narrowing any terms used in the Bible or in the Mishnah. Therefore, if the Amoraim were to avoid outright heavy-handed emendation, they had to rework the syntax of one or the other, and given the authority of the Bible, and its lack of openings for ambiguity in this case, it was the syntax of the Mishnah that was reworked. Second, it is important to note that the new law that was produced, that denied liability for the pit-falling death of normal animals, was readily acceptable because it entailed little practical cost.

I hope that recognition of this instance may encourage others to identify more cases and thus help build up a dossier and articulate a model that may further our understanding of the interplay of tradition and human logic, on the one hand, and biblical text and authority, on the other, in Jewish tradition, or, more generally, in the history of scriptural religions.



## ■ Appendix: End of *m. Baba Qamma* 5:6, and discussion of it in *b. B. Qam.* 54a–b<sup>73</sup>

*Mishnah*: If a שור חרש שומה וקטן fell into a pit—the pit-opener is liable. But if a son or daughter, slave or slave-woman fell in—he is exempt.

*Talmud*: What does שור חרש שומה וקטן mean?

1) If we were to say it means “an ox belonging to a deaf-mute person, an ox belonging to an imbecile, or an ox belonging to a minor”—that would imply that if an ox belonging to a normal person fell in the pit-opener is exempt! [That would obviously be unacceptable. Rather:]

2) R. Johanan said: The *Mishnah* means “an ox that is deaf-mute, an ox that is imbecilic, or an ox that is underage.” But that would imply that if a normal ox fell in the pit-opener is exempt! [And that too is unacceptable.]

3) [In order to rescue R. Johanan’s suggestion,] R. Jeremiah said: [R. Johanan meant that the *Mishnah* is to be read] as if it said “it goes without saying,” namely: It goes without saying that the pit-opener is liable if the ox that fell in and died was normal [for that is the normal case, to which the biblical law relates]. But if an ox that is deaf-mute, imbecilic, or underage fell into the pit and died, I might say that it was its deafness or its imbecility or its being underage that caused it to fall, so the pit-opener is exempt—which is why the *Mishnah* points out that in fact the pit-opener is liable even for such animals.

4) R. Aḥa of Diphti<sup>74</sup> said to Rabina: But have we not learned in a *baraita*, “If an intelligent being [בן דעת] fell into it the pit-opener is exempt?” Does not that formulation [which does not simply say “person”] refer to an intelligent ox [which would mean that R. Jeremiah is wrong]?

5) Rabina responded: No, it means an intelligent person. [So nothing contradicts R. Jeremiah’s statement that the pit-opener is liable when any animal falls in.]

6) But [R. Aḥa—or an anonymous voice on his behalf—rejoins]: If the point of the *baraita* were that the pit-opener is exempt if an intelligent person falls into the pit, would that not imply that the pit-opener is liable if the person who fell in and died was not intelligent? [But that would be an unacceptable conclusion, for] it is written: “‘an ox’ [Exod 21:33] and not a person” [thus excluding liability for the death of any person]! Rather [Rabina’s interpretation of the *baraita* is unacceptable, and must be reformulated, as follows]: What does “an intelligent being” [in the *baraita* cited in § 4] mean? A member of the intelligent species. [So all that *baraita*

<sup>73</sup> What follows is my expansive translation of the text given in the critical edition: *Talmud Bavli: Massekhet Bava Qamma, With Hebrew Translation and a New Commentary, Variant Readings, and References* (ed. Ezra Zion Melamed; Jerusalem: Dvir, 1952) 86 [Hebrew]. Within square brackets I have added explanatory comments. The translation and explanations follow the sense of the discussion as it is now, without reference to what elements may once have meant, as discussed in the body of this article. The three *baraitot* quoted in §§ 4, 7–8 are the focus of the discussion in part 2a.

<sup>74</sup> The words “of Diphti” appear in numerous manuscripts. On him, see above, n. 72.

means is that the pit-opener is exempt if any person falls in and dies, because all people are members of the species that is intelligent. If, however, any animal falls in, the pit-opener is liable, for all animals are members of a species that is not intelligent. The discussion would have ended here, ratifying R. Jeremiah's position, were it not for another text:]

7) R. Aḥa said to Rabina: But another *baraita* says: "If a person or someone else with intelligence [אדם ובן דעת<sup>75</sup>] fell into it the pit-opener is exempt." [That means that the pit-opener is exempt not only for any person, but also for intelligent animals. So R. Jeremiah's view cannot be maintained. Rather, in conclusion:]

8) Rava accordingly said [diametrically contradicting R. Jeremiah: The Mishnah refers] only to an ox that is deaf-mute, an ox that is imbecilic, or an ox that is underage. If, however, a normal ox falls into the pit and dies the pit-opener is exempt. Why? It should have watched where it was going. And there is also a *baraita* that says the same: "If an ox that is deaf-mute, imbecilic, or underage, or blind or walking about at night falls into it the pit-opener is liable; but if it is normal and walking about during the day the pit-opener is exempt."

<sup>75</sup> On the text see above, at n. 47. On the translation, see part 2a.

# Volitional Sin in Origen's *Commentary on Romans*\*

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## ■ Introduction

The study of Origen's anthropology has generated a great deal of interest in the last few decades.<sup>1</sup> This ongoing reassessment has filled considerable lacunae and redressed fundamental misconceptions in this area of his thought. There remains, however, an aspect of his anthropology in need of more thorough analysis. Scholarship on Origen's understanding of sin remains underdeveloped. Most studies

\* I would like to thank Lewis Ayres, Matthew R. Crawford, Francis Watson, Dan McCartney, and the anonymous readers at *HTR* for reading earlier drafts of this article and offering helpful feedback.

<sup>1</sup> For recent studies on Origen's anthropology, see Cécile Blanc, "L'attitude d'Origène à l'égard du corps et de la chair," *StPatr* 17 (1982) 843–58; Peter Brown, *The Body and Society: Men, Women, and Sexual Renunciation in Early Christianity* (New York: Columbia University Press, 1990) 160–77; Henri Crouzel, *Théologie de l'image de Dieu chez Origène* (Paris: Aubier, 1956); idem, *Origen* (trans. A. S. Worrall; Edinburgh: T&T Clark, 1989) 87–98; idem, "L'anthropologie d'Origène. De l'arché au telos," in *Arché e Telos. L'antropologia di Origene e di Gregorio di Nissa. Analisi storico-religiosa. Atti del colloquio, Milano, 17–19 maggio 1979* (ed. Ugo Bianchi; Studia patristica Mediolanensia 12; Milan: Vita e Pensiero, 1981) 36–57; Anders-Christian Lund Jacobsen, "Origen on the Human Body," in *Origeniana Octava: Origen and the Alexandrian Tradition; Papers of the 8th International Origen Congress, Pisa, 7–31 August 2001* (ed. Lorenzo Perrone in collaboration with P. Bernardino and D. Marchini; 2 vols.; BETL 164; Louvain: Louvain University Press, 2003) 1:649–56; Henri de Lubac, "Tripartite Anthropology," in *Theology in History* (trans. Anne Englund Nash; San Francisco: Ignatius Press, 1996) 117–49; Jacques Dupuis, *L'Esprit de l'homme. Étude sur l'anthropologie religieuse d'Origène* (Museum Lessianum section théologique 62; Paris: Desclée de Brouwer, 1967); Mark J. Edwards, "Christ or Plato? Origen on Revelation and Anthropology," in *Christian Origins: Theology, Rhetoric and Community* (ed. Lewis Ayres and Gareth Jones; New York: Routledge, 1998) 11–25; idem, *Origen against Plato* (Ashgate Studies in Philosophy and Theology in Late Antiquity; Burlington, Vt.: Ashgate, 2002) 87–122; idem, "Origen No Gnostic; or, On the Corporeality of Man," *JTS* 43 (1992) 23–37; and Giulia Sfameni Gasparro, *Origene. Studi di antropologia e di storia della tradizione* (Nuovi saggi 90; Rome: Edizioni dell'ateneo, 1984).



of his conception of sin have concerned themselves with his famous teaching on the preexistent fall found in *First Principles*. Seldom has scholarship traced this theme beyond this early treatise. A notable exception is the ambitious attempt by Georg Teichtweier to offer a comprehensive account of Origen's understanding of sin in his *Die Sündenlehre des Origenes*. However, the scope of Teichtweier's project is so broad that any sustained expression of any particular aspect of Origen's hamartiological teaching is inhibited.<sup>2</sup>

The present analysis will focus exclusively on how Origen conceives of volitional sin. To delimit the study further I will focus on Origen's understanding of sin in his *Commentary on Romans*. A careful examination of his elucidation of sin in this extensive commentary has yet to be written.<sup>3</sup> Here we possess Origen's sustained exegesis of an entire biblical book—the only one of its kind to survive—giving the reader his most prolonged reflection on human sin in his entire corpus.<sup>4</sup> Such a reflection demonstrates that Origen understands volitional sin as a misappropriation of the individual's tripartite makeup, a situation where God's law—natural law, Mosaic law, or the law of Christ—is breached through the soul's lack of moderation, caused when the lower element of the soul usurps the higher element and gives undue attention to the ephemeral needs of the body.<sup>5</sup> Through his close interaction

<sup>2</sup> Georg Teichtweier, *Die Sündenlehre des Origenes* (Studien zur Geschichte der katholischen Moraltheologie 7; Regensburg: Friedrich Pustet, 1958). This study is useful in its attempt to offer a wide-ranging and systematic account of Origen's doctrine of sin (e.g., the problem of evil, consequences of sin, punishment for sin, types of sin, forgiveness of sin, etc.). But the broad character of Teichtweier's project, while noteworthy and often valuable, precludes any sustained thesis and offers little sensitivity to particular exegetical concerns on the part of Origen.

<sup>3</sup> The study by José Ramón Díaz Sánchez-Cid, *Justicia, Pecado y Filiación. Sobre el Comentario de Orígenes a los Romanos* (Toledo: Estudio Teológico de San Ildefonso, 1991), is concerned primarily with soteriological themes. Sánchez-Cid's analysis of sin is minimal and limited almost exclusively to the sin of Adam.

<sup>4</sup> Even though we possess Origen's exegesis of the entire epistle, Rufinus, admittedly, has compressed its length to half the original (Pref. Ruf. 1.1). The reliability of the Latin translation by Rufinus is attested in Henry Chadwick, "Rufinus and the Tura Papyrus of Origen's Commentary on Romans," *JTS* 10 (1959) 10–42, esp. 15, and Karl H. Schelkle, *Paulus, Lehrer der Väter. Die altkirchliche Auslegung von Römer I–II* (Düsseldorf: Patmos, 1956) 443–48. For the Greek fragments, see Jean Scherer, *Le Commentaire d'Origène sur Rom. III.5–V.7 d'après les extraits du Papyrus n° 88748 du Musée du Caire et les fragments de la Philocalie et du Vaticanus gr. 762. Essai de reconstitution du texte et de la pensée des tomes V et VI du "Commentaire sur l'Épître aux Romains"* (Bibliothèque d'Étude 27; Cairo: Institut français d'archéologie orientale, 1957). Scherer notes, "Le traduction de Rufin est souvent précise, exacte et, dans une large mesure, fidèle" (88).

<sup>5</sup> The present analysis will be unable to address a significant theme in the *Commentary on Romans*, namely, volitional sin in relation to Jewish versus Gentile salvation. This corporate dimension of sin plays a large role in Origen's exegesis of Paul and deserves its own study. Nevertheless, Origen often situates this theme within the above context where he sees the soul acquiescing to the flesh in the realm of biblical interpretation. Sin occurs when the law is understood in a fleshly manner rather than a spiritual manner. From there he provides a close reading of Paul that exhibits genuine insight and sensitivity with regard to this important subject, revealing a nuanced and thought-provoking appraisal of Paul's teaching. For more on this, see Origen, *Comm. Rom.* 3.1; 4.2; 6.12; 7.17; 8.1, 6–9, 11; Jeremy Cohen, "The Mystery of Israel's Salvation: Romans 11:25–26 in Patristic and Medieval

with the apostle, Origen achieves here a greater measure of clarity and consistency in his understanding of sin than that found in his early work *First Principles*.

## ■ Deterministic and Origenian Anthropology

The fundamental framework for this discussion of sin is Origen's tripartite anthropology. The extent to which he articulates his anthropology in the *Commentary on Romans* is striking and the reason for this sustained explication is the deterministic anthropology attributed by Origen to Basilides, Valentinus, and Marcion. These "heretics," Origen says, argue "that the cause of each person's actions is not to be attributed to one's own purpose but to different kinds of natures."<sup>6</sup> Origen counters by arguing that natures cannot be predetermined. Since everything that exists has been made by God, "uncleanness and defilement consists not in things or in essences, but in actions and thoughts less right."<sup>7</sup> The rebuttal of this doctrine of natures is one of the prominent themes of the commentary.<sup>8</sup> Such defective cosmological and anthropological reasoning is resolved for Origen through an examination of what Scripture says about the individual. Based on the apostle's own words (1 Thess 5:23), Origen understands the individual to consist of "spirit" (*spiritus*), "soul" (*anima*), and "body" (*corpus*).<sup>9</sup> These are three "aspects" (*esse*) in the individual,<sup>10</sup> and they contain an inherent hierarchy.<sup>11</sup> While this tripartite structure is usually understood in a dynamic or tendential sense, its basis is nevertheless ontological.<sup>12</sup> The human spirit is distinct in Origen's anthropology.<sup>13</sup>

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Exegesis," *HTR* 98 (2005) 247–81, esp. 261–63; Peter Gorday, *Principles of Patristic Exegesis: Romans 9–11 in Origen, John Chrysostom, and Augustine* (New York: Edwin Mellen, 1983) 43–102; and Annie Jaubert, *Origène. Homélie sur Josué* (SC 71; Paris: Cerf, 1960) 12.

<sup>6</sup> Origen, *Comm Rom.* 1.1 (Hammond Bammel, 16:37; Scheck, 103:53). The English translation is *Origen: Commentary on the Epistle to the Romans, Books 1–5; 6–10* (trans. Thomas P. Scheck; FOTC 103–4; Washington, D.C.: Catholic University of America Press, 2001–2002), unless otherwise noted. All citations are to the critical edition: *Der Römerbriefkommentar des Origenes* (ed. Caroline P. Hammond Bammel; 3 vols.; AGBL 16, 33, 34; Freiburg: Herder, 1990–1998).

<sup>7</sup> Origen, *Comm Rom.* 10.3 (Hammond Bammel, 34:791; Scheck, 104:258).

<sup>8</sup> *Ibid.* 2.4, 7; 4.12; 8.10.

<sup>9</sup> "May the God of peace himself sanctify you wholly; and may your spirit and soul and body be kept sound and blameless at the coming of our Lord Jesus Christ" (1 Thess 5:23; RSV). See also Origen, *Comm Rom.* 1.12, 21; 7.1; *Dial.* 136–42; *Princ.* 3.4.1; *Comm. Matt.* 13.2; 14.3.

<sup>10</sup> Origen, *Comm. Rom.* 1.12 (Hammond Bammel, 16:69; Scheck, 103:79).

<sup>11</sup> Origen, *Comm. Rom.* 1.12; 7.2; 9.25. See also Maurice Wiles, *The Divine Apostle: The Interpretation of St. Paul's Epistles in the Early Church* (Cambridge, U.K.: Cambridge University Press, 1967) 33.

<sup>12</sup> Crouzel, *Origen*, 88; Dupuis, *L'Esprit de l'homme*, 66–76. The dynamic quality of this structure is realized often in Origen's appropriation of the "two ways" tradition common in the commentary: "The soul is always midway between the spirit and the flesh and . . . it joins itself either to the flesh, thus becoming one with the flesh, or it associates itself with the spirit and becomes one with the spirit" (*Comm. Rom.* 1.7 [Hammond Bammel, 16:58; Scheck, 103:71]).

<sup>13</sup> Origen, *Comm. Rom.* 7.1. See also Henri Crouzel, "L'anthropologie d'Origène dans la perspective du combat spirituel," *Revue d'ascétique et de mystique* 31 (1955) 1–22, at 10.

He identifies it with the “conscience” (*conscientiam*),<sup>14</sup> says it acts as a pedagogue to the soul,<sup>15</sup> and sometimes refers to it as the “intellect.”<sup>16</sup> The human spirit is the divine element in humanity. It is responsible for moral instruction. When the soul deviates from the human spirit, the latter is reduced to a state of dormancy.<sup>17</sup> The soul is the seat of rationality,<sup>18</sup> serves to vivify the body,<sup>19</sup> and, even though it has fallen from its original state—an idea largely muted in the commentary<sup>20</sup>—it nevertheless remains a good creation of God.<sup>21</sup> But the soul is unstable, and while it may contain higher and lower elements or tendencies, it nevertheless should not be confused with Plato’s tripartite division.<sup>22</sup> Origen describes the soul as an intermediary between body and spirit,<sup>23</sup> and says that alongside the spirit it is created in the image of God, thus representing the “inner man.”<sup>24</sup> An examination of Origen’s conception of the body is directly related to our forthcoming discussion of sin and the passions and need not presently detain us long. Although this is a notoriously difficult and nuanced area of his thought, some measure of clarity is obtained by making the critical distinction between body *qua* body as opposed to body *qua* flesh.<sup>25</sup> The latter is a distinct theological concept that refers to the world of sin, corruption, and death as a consequence of Adam’s transgression, as well as the emulation of this condition in our daily lives. This condition makes ethical decisions more difficult, but Origen insists that free will is preserved in the individual and it serves as a dominant motif in the commentary in his effort to refute his deterministic adversaries.<sup>26</sup> This refutation is further accomplished by refracting his doctrine of free will through the tripartite composition: the soul must always choose between virtue (spirit) and vice (body/flesh). Origen’s hamartiology is a pronounced theme in the commentary and one major reason for this is found in

<sup>14</sup> Origen, *Comm. Rom.* 2.7 (Hammond Bammel, 16:136–37).

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.* 7.2.

<sup>17</sup> Origen, *Comm. Rom.* 1.21. See also Crouzel, *Origen*, 88; idem, “L’anthropologie d’Origène,” 38–39.

<sup>18</sup> Origen, *Comm. Rom.*, 1.19; 7.2.

<sup>19</sup> *Ibid.* 3.2. See also Origen, *Princ.* 3.4.1.

<sup>20</sup> Even though the *Commentary on Romans* contains no explicit references to the preexistent fall, there are at least two enigmatic passages that could be taken in this manner: 5.4 and 7.6. For the preexistent fall in *First Principles*, see 1.6.2; 1.7.4; 1.8.1; 2.1.1; 2.8.3; 4.4.8.

<sup>21</sup> “From this observation [Rom 3:12] it is clear that the original work of the rational nature which was made by God had been upright and was set on the right path as a gift of its Creator,” Origen, *Comm. Rom.* 3.2 (Hammond Bammel, 16:213; Scheck, 103:195).

<sup>22</sup> Crouzel, “L’anthropologie d’Origène,” 36–57; idem, *Origen*, 87–92; Henri Crouzel and Manlio Simonetti, *Origène. Traité des Principes* (ed. and trans. Henri Crouzel and Manlio Simonetti; 5 vols.; SC 252, 253, 268, 269, 312; Paris: Cerf, 1978–1984) 4:87; and Henri de Lubac, “Tripartite Anthropology,” esp. 138–44.

<sup>23</sup> Origen, *Comm. Rom.* 6.1 (Hammond Bammel, 33:458). See also 1.7, 21.

<sup>24</sup> *Ibid.* 1.22 (Hammond Bammel, 16:97; Scheck, 103:101). See also Origen, *Cels.* 6.63.

<sup>25</sup> Crouzel laments, “Origen’s notion of the body . . . is not easy to pin down and shows many ambiguities” (*Origen*, 90).

<sup>26</sup> Origen, *Comm. Rom.* 1.1, 19, 21; 4.10, 12; 5.3, 10; 6.1, 3, 4; 7.6, 14; 8.4, 8, 10, 12; 9.2, 3.



the stark clarity with which he presents the ethical life: the individual must either progress in virtue or regress in vice.<sup>27</sup>

## ■ Sin and the Law

Origen's tripartite anthropology is the essential framework through which to understand his conception of volitional sin. I will now show how this anthropology is joined to his characterization of sin through his understanding of law. Origen offers three definitions of sin in the commentary and each definition suggests that a violation of God's law constitutes sin:

A matter can be called "sin" if it is wrongfully committed, contrary to what nature teaches or what the conscience convicts us of.<sup>28</sup>

This (natural) law raised sin from the dead, so to speak. In fact this is the nature of sin, if what the law forbids to be done happens.<sup>29</sup>

One should know, however, that other learned men use this definition as well, that the nature and cause of sin is in whether something is added to or subtracted from the virtues.<sup>30</sup>

These are his clearest and most succinct definitions of sin in the commentary. The definitions make it evident that Origen is organizing his thoughts around the idea of natural law and its relationship to the individual. In exploring this theme, I will demonstrate how he makes use of Stoic and Aristotelian vocabulary and ideas to clarify the apostle's thought. But this incorporation is not the impetus for his discussion nor does it supplant the authoritative role Scripture plays in his theology of sin. Throughout Origen's corpus, philosophy serves as a handmaid to biblical exegesis and is useful in elucidating scriptural revelation.<sup>31</sup> In the *Commentary on*

<sup>27</sup> Ibid. 1.21; 4.1, 7.

<sup>28</sup> Ibid. 4.1 (Hammond Bammel, 33:282; Scheck, 103:246). See also Origen, *Princ.* 1.5.2; *Cels.* 4.99; Marcus Aurelius, *Med.* 9.1.

<sup>29</sup> Origen, *Comm. Rom.* 6.8 (Hammond Bammel, 33:502; Scheck, 104:33).

<sup>30</sup> Ibid. 9.2 (Hammond Bammel, 34:722; Scheck, 104:200).

<sup>31</sup> Older scholarship tended to see Hellenistic influences that often eclipsed Origen's Christian confession (e.g., Charles Bigg, *The Christian Platonists of Alexandria* [Oxford: Clarendon Press, 1913] and Eugene de Faye, *Origen and His Work* [trans. Fred Rothwell; London: Allen & Unwin, 1926]). Recent scholarship has tended to see Origen as a man guided by Scripture *over against* most Hellenistic influences (e.g., Edwards, *Origen against Plato*; P. Tzamalikos, *Origen: Cosmology and Ontology of Time* [Leiden: Brill, 2006]; and idem, *Origen: Philosophy of History and Eschatology* [Leiden: Brill, 2007]). The primary focus of this recent scholarship has been to exonerate Origen from the alleged Platonist influence on his thinking. These works have attained a certain degree of success by clarifying misconceptions and properly situating Origen within a Christian context. But their achievements are limited in that their claims are often overstated. See, e.g., the judicious review of *Origen against Plato* by Maurice Wiles in *JTS* 55 (2004) 340–44, as well as the telling review of *Origen: Cosmology and Ontology of Time* by Mark J. Edwards in *JEH* 58 (2007) 109–10, at 109, where he notes that the premises put forth by Tzamalikos "distend the evidence." This relationship is best understood in a manner that does not see Origen as compromising his Christian

*Romans* he remains disciplined in his plan to unfold the apostle's train of thought in the epistle and seeks to elucidate sin in light of the economy of salvation. To explore the compatibility of these definitions alongside his numerous other excursions on the subject I will now turn to his understanding of law and how this informs our reading of Origen's conception of volitional sin.

Origen's understanding of salvation usually arises from his cosmology, which in turn is always inextricably linked to personal responsibility. This is demonstrated in his understanding of the apostle's use of homonyms in the epistle, specifically the homonym "law."<sup>32</sup> Origen recognizes that the apostle's use of the term law changes according to context. The law cannot always refer to the Mosaic law (e.g., Rom 2:14; 5:13, 20); rather passages such as these are best understood as including references to natural law. Accordingly, Origen offers several sustained reflections on natural law in the commentary, as he is the first church father to speak at length on the subject. Natural law is a gift of God for everyone (including angels) to convict all of sin.<sup>33</sup> The ability to ascertain natural law, that is, the state of being "capable of reason" (*rationis capax*), steadily grows in the individual,<sup>34</sup> and the goal of this "reasoning capacity" is "to teach him that what he is doing ought not be done."<sup>35</sup> Those for whom natural law brings an awareness of sin and its subsequent moral corrective are said to exhibit better both the image of God and their own awareness of this image.<sup>36</sup> Origen wants to communicate that those without access to the Mosaic law are without excuse, for a transgression of natural

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confession nor steering clear of any philosophical categories altogether. His tempered incorporation of philosophical ideas serves the purpose of attempting to clarify Scripture. But philosophy remains an incomplete discipline in Origen's thinking in that it is insufficient to lead anyone to salvation. Henri Crouzel, for the most part, strikes the appropriate balance with regard to this relationship. He argues that Origen favors some schools over others: Platonism and Stoicism over Aristotelianism and Epicureanism. But no school of thought is without critique and, with the exception of Epicureanism, Origen can find some elements in each school to clarify Scripture. With special attention paid to the Stoics, Crouzel aptly states: "Certes l'intention du Stoïcien, motivée par le sens du bien commun et le respect d'autrui dans la justice, appartient à une moralité authentique. Mais elle ne suffit pas au chrétien dont l'amour de Dieu doit inspirer toute la vie. Le Seigneur doit être le but unique de son activité, l'amour du prochain et tous les autres amours, le sens du bien commun, étant intégrés à l'amour de Dieu" (*Origène et la Philosophie* [Paris: Aubier, 1962] 101). For more on the Stoic influences on Origen, see below (nn. 38, 40).

<sup>32</sup> For a more extended treatment of Origen's homonymic use of "law" in the *Commentary on Romans*, see Reimer Roukema, *The Diversity of Laws in Origen's Commentary on Romans* (Amsterdam: Free University Press, 1988). See also *Comm. Rom.* 1.1; 3.3.

<sup>33</sup> "The Apostle is saying these things about the law which every being, both men and angels, bears naturally within itself by a certain divine dispensation and gift" (Origen, *Comm. Rom.* 5.1 [Hammond Bammel, 33:380; Scheck, 103:320]). See also *Comm. Rom.* 3.3.

<sup>34</sup> *Ibid.* 5.1 (Hammond Bammel, 33:376–377; Scheck, 103:317–318, respectively).

<sup>35</sup> *Ibid.* 5.1 (Hammond Bammel, 33:377; Scheck, 103:317). Later in the commentary Origen notes that those too young to apprehend natural law are characterized as being "before the mind within us grows vigorous when it reaches the age of reason" (*Comm. Rom.* 6.8 [Hammond Bammel, 33:501; Scheck, 104:32]).

<sup>36</sup> *Ibid.* 5.1.

law leaves the individual no less culpable than a transgression of the Mosaic law.<sup>37</sup> But this reflection on natural law is always attuned to the needs of his audience. A misunderstanding of natural law is a misunderstanding of God's economy of salvation. This is precisely the message he desires to convey to an audience that may have fallen under the influence of Basilidean teaching. Interestingly, two of Origen's longest digressions on natural law in the *Commentary on Romans* (5.1; 6.8) serve the purpose of castigating the Basilidean teaching that souls are transferred through various animals only to eventually reach humans (μετενσωμάτωσις). He insists that Basilides grossly misinterprets the apostle's declaration "but I was once alive without the law" (Rom 7:9). This does not refer, as Basilides supposes, to an absence of law altogether and its concomitant implication that our souls existed and were living in various animals before arriving in our present human bodies. Rather it refers to natural law, that is, to the law given by God before the Mosaic law. This is how we are to understand the apostle's teaching in light of the economy of salvation.

Although Origen remains committed to expounding the apostle's thought in Romans, this does not preclude his incorporation of Stoic concepts for further clarification.<sup>38</sup> The Stoics consistently taught that the ethical ideal is to live in accordance with nature. The first-century Stoic author Arius Didymus argues that the aim of all virtues is to live "consistently with nature,"<sup>39</sup> and "that every virtue which is associated with man and the happy life is consistent with and in agreement with nature."<sup>40</sup> "It is manifest," says the Stoic philosopher Epictetus, "that in everything we should make it our aim neither to avoid that which nature demands, nor to accept that which is in conflict with nature."<sup>41</sup> But Origen is not alone in appropriating

<sup>37</sup> "Yet I do not know what time period they could find prior to the giving of the law which was void of sins. When Cain was murdering Abel and defiling the earth with his brother's blood . . . was not sin abounding?" (Origen, *Comm. Rom.* 5.6 [Hammond Bammel, 33:412; Scheck, 103:345]).

<sup>38</sup> In *Against Celsus* Origen admits to having read Chrysippus (*Cels.* 1.64; 5.57; 8.51) and Epictetus (*Cels.* 6.2). The incorporation of Stoic ideas in Origen's exegesis has been demonstrated by Richard A. Layton, "*Propatheia*: Origen and Didymus on the Origin of the Passions," *VC* 54 (2000) 262–82, esp. 265, and Ronald E. Heine, "Stoic Logic as Handmaid to Exegesis and Theology in Origen's *Commentary on the Gospel of John*," *JTS* 44 (1993) 90–117. For Origen's relationship to Stoic thought in *Against Celsus*, see Henry Chadwick, "Origen, Celsus, and the Stoa," *JTS* 48 (1947) 34–49. Crouzel summarizes their influence: "As for the Stoics, their morality is accepted, but their cosmology and their theology are regarded as materialist and Origen pokes fun at their cyclical view of time" (*Origen*, 157).

<sup>39</sup> Arius Didymus, *Ecl.* 5b3, in *Epitome of Stoic Ethics* (ed. Arthur J. Pomeroy; Texts and Translations: Graeco-Roman Series 44/14; Atlanta: SBL, 1999) 17.

<sup>40</sup> *Ibid.* 6 (Pomeroy, 37). See also *ibid.* 7b; 10a. Tzamalikos admits some Stoic influence on Origen despite his overall aim to refute the Hellenistic charges against him: "Origen definitely moves in a Stoic vein in taking the view that created rationality is always and necessarily embodied in matter. This Stoic tenet was an aspect of their doctrine that matter is permeated and controlled by a rational principle. . . . The cosmos as a whole exhibits a rational structure and governing principle, but obviously some parts of it are distinguished by having a rationality of their own, and are called 'microcosms' on this account" (*Origen*, 116).

<sup>41</sup> Epictetus, *Disc.* 1.26.1–3, in *Epictetus: The Discourses as Reported by Arrian, the Manual*,



Stoic ethics in such a manner. His understanding of sin as a violation of nature is consonant with the Alexandrian theological tradition. His predecessor Clement utilizes a similar definition in his own theology, even identifying reason (or nature) with the Word, or Christ.<sup>42</sup> Origen never explicitly makes such an identification, but would likely have agreed with his teacher.<sup>43</sup>

This concern for the standard of natural law is limited if the individual's ability to ascertain such a standard is lacking. Origen addresses this by finding recourse in the individual's constitution in arguing that reason is implanted in the soul.<sup>44</sup> Even though Origen rejects the Stoic materialist conception of the soul, he nevertheless retains their particular language of governance within the soul. He insists that aid in ascertaining natural law is found within, insofar as this law "has been inscribed by the one who created man in the beginning on the governing part of man's heart [principali cordis]."<sup>45</sup> The *principale cordis*, or its Greek equivalent *hegemonikon* (ἡγεμονικόν), is the Stoic term used to designate the higher or ruling part of the soul that serves the purpose of ordering the lower parts.<sup>46</sup> For the Stoics the *hegemonikon* perceives—or better registers and unifies—that which the senses

and Fragments (ed. G. P. Goold; trans. W. A. Oldfather; 2 vols.; LCL 131; Cambridge: Harvard University Press, 1925) 1:167.

<sup>42</sup> "Everything that is contrary to right reason is sin. Accordingly, therefore, the philosophers think fit to define the most generic passions thus: lust, as desire disobedient to reason; fear, as weakness disobedient to reason; pleasure, as an elation of the spirit disobedient to reason. If, then, disobedience in reference to reason is the generating cause of sin, how shall we escape the conclusion, that obedience to reason—the Word—which we call faith, will of necessity be the efficacious cause of duty? For virtue itself is a state of the soul rendered harmonious by reason in respect to the whole life. Nay, to crown all, philosophy itself is pronounced to be the cultivation of right reason; so that, necessarily, whatever is done through error of reason is transgression, and is rightly called, (ἀμάρτημα) sin . . . for he who transgresses against reason is no longer rational, but an irrational animal, given up to lusts by which he is ridden (as a horse by his rider). But that which is done right, in obedience to reason, the followers of the Stoics call προσηκον and καθήκον, that is, incumbent and fitting" (Clement of Alexandria, *Paed.* 1.13, as translated in *ANF* 2:235).

<sup>43</sup> See for example Origen, *Comm. Rom.* 2.5 (Hammond Bammel, 16:116), where he asserts that the one who dishonors justice and truth dishonors Christ.

<sup>44</sup> Origen has already shed some light on this in *Princ.* 3.1.2–3 and *Or.* 6.1.

<sup>45</sup> Origen, *Comm. Rom.* 5.6 (Hammond Bammel, 33:414; Scheck, 103:346).

<sup>46</sup> P. Aloisius Lieske identifies three functions of the *hegemonikon* in Origen's thought: 1) the cradle of the intellectual life, 2) the operation of freedom or self-determination of the will, particularly in regard to the religious life, and 3) the communion of the soul with the Logos that establishes religious significance (P. Aloisius Lieske, S.J., *Die Theologie der Logos-mystik bei Origenes* [Münster: Aschendorff, 1938] 104–5). However, Lieske nowhere develops a relationship between the *hegemonikon* and sin, nor does he speak of its role in the *Commentary on Romans*. Stoics understood the soul to be composed of eight parts: five senses (sight, hearing, touch, taste, smell), voice, reproduction, and the *hegemonikon*. See also A. A. Long and D. N. Sedley, *The Hellenistic Philosophers* (2 vols.; Cambridge, U.K.: Cambridge University Press, 1987) 1:53H; Julia Annas, *Hellenistic Philosophy of Mind* (Berkeley: University of California Press, 1992) 61; and Brad Inwood, *Ethics and Human Action in Early Stoicism* (Oxford: Clarendon, 1985) 29. Inwood, however, clarifies that figures like Chrysippus (and possibly Zeno) can affirm a monistic soul insofar as "the various powers of the soul all function together harmoniously, with no internal conflict or opposition" (*ibid.*, 33).

detect.<sup>47</sup> In this same passage Origen equates *hegemonikon* with “mind” (*mens*) and elsewhere refers to the soul’s rational power as the “heart” (*cor*).<sup>48</sup> Henri Crouzel fills out the picture by noting how Origen (in the Latin translation of Rufinus) can also refer to this part simply as “soul” (*anima*), while reserving an alternative Latin term for “mind” (*sensus*) to refer to the lower element of the soul.<sup>49</sup> So we have in Origen several terms used to designate the ruling part of the soul—the interior locus of the law. The interiorizing of natural law provides the theological rationale for the ethical standard and therefore emphasizes personal responsibility. This moral onus is intensified through his later assertion that natural law and divine law are one and the same: “*God speaks . . . in the governance of the heart [principali cordis].*”<sup>50</sup> Origen does not hesitate to equate the law of the mind with God’s law,<sup>51</sup> and such agreement between the two is also basic to the Stoic philosophical tradition.<sup>52</sup> Indeed, Crouzel has observed that for Origen the *hegemonikon* “dirige son activité et que est une parcelle ou une émanation de la Raison universelle.”<sup>53</sup> As “l’organe de la contemplation divine,” the *hegemonikon* contains both an intellectual and moral sense, and is the principle of the supernatural realities.<sup>54</sup> Thus the activity of the *hegemonikon* in appropriating Origen’s ethics is difficult to overstate. Yet another instance of the term demonstrates this interplay between its rational and moral facets. He notes that the apostle commands Christians to provide food and drink to the enemy in an effort to “heap burning coals on his head” (Rom 12:20). Origen makes the point that this desired repentance in the enemy is located in his “head”: “‘Head’ is the name given to the governing part of the heart [*principale cordis*], and it is rightly called the head since from its intelligence and wisdom all the members are guided.”<sup>55</sup> Thus the operations of both the intellectual and moral facets are instrumental in fulfilling the ethical life, for the *hegemonikon* is responsible for the actions of both the soul and the body.<sup>56</sup>

As we can now see more clearly the act of sinning is not dependent upon possessing the Mosaic law. Origen clearly teaches that “God has implanted into

<sup>47</sup> Annas, *Hellenistic Philosophy of Mind*, 62–63.

<sup>48</sup> See Origen, *Comm. Rom.* 2.7 (Hammond Bammel, 16:136; Scheck, 103:132) and *Princ.* 1.1.9: “That heart is used for mind, that is, for the intellectual faculty, you will certainly find over and over again in all the scriptures, both the New and the Old” (as translated in *On First Principles: Being Koetschau’s Text of the “De principiis”* [trans. G. W. Butterworth; Gloucester, Mass.: Peter Smith, 1973] 14). See also Origen, *Comm. Rom.* 3.3 and *Cels.* 6.69.

<sup>49</sup> Crouzel, *Origen*, 88–89. See also Origen, *Princ.* 2.8.3 for the distinction between “mind” and “soul.”

<sup>50</sup> Origen, *Comm. Rom.* 7.16 (Hammond Bammel, 34:633; Scheck, 104:125) [emphasis mine].

<sup>51</sup> *Ibid.* 6.12.

<sup>52</sup> Richard A. Horsley, “The Law of Nature in Philo and Cicero,” *HTR* 71 (1978) 35–59.

<sup>53</sup> Crouzel, “L’Anthropologie d’Origène,” 12.

<sup>54</sup> *Ibid.*

<sup>55</sup> Origen, *Comm. Rom.* 9.23 (Hammond Bammel, 34:746; Scheck, 104:220).

<sup>56</sup> There are indications in the commentary that Origen sees the *hegemonikon* as even desiring the good: see *ibid.* 6.12; 7.6.

the soul”<sup>57</sup> this “internal law”<sup>58</sup> and it is therefore “naturally innate within men.”<sup>59</sup> It is now evident why Origen crafts his first two definitions of sin around acts that are contrary to nature. Both the standard and the means of discerning such a standard work in concert with each other. But this act of violating nature is a complex ontological and ethical problem that necessitates further reflection and will require that we turn to his understanding of the passions.

## ■ Sin and the Passions

In this section I will argue that Origen understands sin to arise from irrational impulses found in the lower element of the soul. Such impulses are in close relationship to the body and become passions, and therefore sin, when admitted by the soul’s higher element. Once again the tripartite structure of his anthropology, and indeed the ruling function of the *hegemonikon*, play a crucial role in helping us to understand the nature of the rise of the passions. Origen’s manner of speaking about the passions is varied. Occasionally he simply echoes the language of Scripture (Rom 1:26), while at other times he incorporates the term in his explication of sin. Prior to our conversion “we were being impelled by the passions [passionibus] of sin and of the flesh. These passions [passiones], because of the law in our members, were bearing fruit, not for God but for death.”<sup>60</sup> This rather typical account of the passions in the commentary is helpful but by no means exhaustive of what he thinks of this phenomenon.

Origen draws from an existing philosophical and theological tradition. The doctrine of the passions is derived largely from the Stoics and is a notoriously difficult idea to describe with precision. This doctrine was articulated by the Stoics as part of their moral psychology to explain irrationality and the presence of (excessive) emotion in the individual. Broadly speaking, early Stoics understood the passions as judgments of the soul while later Stoics understood them as movements of the soul. Arius Didymus defines a passion as “an impulse which is excessive, disobedient to the choosing reason or an <irrational> motion of the soul contrary to nature (all passions belong to the controlling part of the soul).”<sup>61</sup> The Stoics

<sup>57</sup> Ibid. 1.19 (Hammond Bammel, 16:83; Scheck, 103:90). Elsewhere Origen speaks of the law being “ingrafted” (*Comm. Rom.* 3.3 [Hammond Bammel, 16:225; Scheck, 103:206]).

<sup>58</sup> Ibid. 5.1 (Hammond Bammel, 33:376; Scheck, 103:317).

<sup>59</sup> Ibid. 3.3 (Hammond Bammel, 16:223; Scheck, 103:203). Roukema notes, “In this *Commentary* Origen often interprets *nomos* in the epistle to the Romans with regard to the natural law in order to demonstrate that God is not the God of the Jews only, but of the Gentiles also (Rm 3,29). For it is evident that all texts which deal with the natural law pertain also to the Gentiles. His interpretations, which have been criticized since his own time . . . can be understood as an effort to actualize the Pauline principle ‘for the Jew first and also for the Greek’” (*Diversity of Laws*, 81).

<sup>60</sup> Origen, *Comm. Rom.* 6.7 (Hammond Bammel, 33:485; Scheck, 104:21). See also 1.22; 5.10; 6.3.

<sup>61</sup> Arius Didymus, *Ecl.* 10 (Pomeroy, 57). J. M. Rist defines passions as “impulses (ὁρμαί) which have got out of hand, or as irrational movements of the soul” (*Stoic Philosophy* [Cambridge, U.K.: Cambridge University Press, 1969] 39).



understood four cardinal passions: appetite, fear, pleasure, and distress. The debt Origen owes to Stoic thought seems to be mediated by the debt he owes to his predecessor Clement of Alexandria. Origen works within an existing tradition and this tradition is evident in Clement's *Miscellanies*:

Appetite is then the movement of the mind to or from something. Passion is an excessive appetite exceeding the measures of reason, or appetite unbridled and disobedient to the word. Passions, then, are a perturbation of the soul contrary to nature, in disobedience to reason. But revolt and distraction and disobedience are in our own power, as obedience is in our power. Wherefore voluntary actions are judged. But should one examine each one of the passions, he will find them irrational impulses.<sup>62</sup>

Clement offers themes we have already seen and others to be explored in this section. What captures our attention presently is his language of “appetite” (ὁρμή), “impulses” (ὁρέξεις), and “perturbation” (κίνησις). This language is not peculiar to Clement. Several times in the Latin translation of Rufinus we see the terms “appetite/movement/impulse” (*motus*), “thoughts” (*cogitationes*), and “suggestions” (*suggestiones*). Although the careful definition of such terms is crucial in ascertaining Origen's conception of sin, this has not always proven to be an easy undertaking. Richard Sorabji has noted Origen's tendency in *First Principles* to conflate “first movements” (*primi motus*) with “thoughts” (*cogitationes*), resulting in statements where he affirms that “pleasure” (*hēdonē*) is experienced before assent is given.<sup>63</sup> One gets the sense that the mere thought about sinning is sin itself. While this may be the natural conclusion from select comments in *First Principles*, it is certainly not the picture painted in the *Commentary on Romans*.

Reading the commentary in light of his understanding of “impulse” (*motus*) produces a measure of clarity. Origen praises the Greek, who through the work of natural law in his heart “and moved by natural reason [*naturali ratione motus*],” is able to “hold fast to justice or observe chastity or maintain wisdom, moderation, and modesty.”<sup>64</sup> Indeed, he says God has given every man “every disposition and every drive [*omnes affectus omnesque motus*] by which he can press forward and advance toward virtue.”<sup>65</sup> In these texts Origen understands *motus* as an impulse to be followed because it accords with God's law. But not all impulses are equal.

<sup>62</sup> See Clement of Alexandria, *Strom.* 2.13: “Ὁρμὴ μὲν οὖν φορὰ διανοίας ἐπὶ τι ἢ ἀπὸ τοῦ πάθος δὲ πλεονάζουσα ὁρμὴ ἢ ὑπερτείνουσα τὰ κατὰ τὸν λόγου μέτρα, ἢ ὁρμὴ ἐκφερομένη καὶ ἀπειθῆς λόγῳ παρὰ φύσιν οὖν κίνησις ψυχῆς κατὰ τὴν πρὸς τὸν λόγον ἀπειθειαν τὰ πάθη (ἢ δ' ἀπόστασις καὶ ἔκστασις καὶ ἀπείθεια ἐφ' ἡμῖν, ὥσπερ καὶ ἡ ὑπακοὴ ἐφ' ἡμῖν διὸ καὶ τὰ ἐκούσια κρίνεται) αὐτίκα καθ' ἓν ἕκαστον τῶν παθῶν εἴ τις ἐπεξίτοι, ἀλόγους ὁρέξεις εὗροι ἂν αὐτά,” (For the edition from which this passage is drawn see *Les Stromates. Stromate II* [ed. Claude Mondésert, S.J.; SC 38; Paris: Cerf, 1954] 82; for a translation into English see ANF 2:361).

<sup>63</sup> Richard Sorabji, *Emotion and Peace of Mind: From Stoic Agitation to Christian Temptation* (Oxford: Oxford University Press, 2000) 346–51. Sorabji sees examples of this in *Princ.* 3.1.4; 3.2.4; *Comm. Jo.* 15.3; *Comm. Matt.* 21; and *Comm. Cant.* 3.

<sup>64</sup> Origen, *Comm. Rom.* 2.5 (Hammond Bammel, 16:128; Scheck, 103:125).

<sup>65</sup> *Ibid.* 3.3 (Hammond Bammel, 16:223; Scheck, 103:204).

Some of these suggestions are made by the devil, angels, and evil spirits.<sup>66</sup> However, more often Origen speaks of impulses that seem to derive from ourselves. In book 4 he speaks hypothetically of the man who possesses natural law and is faced with sexual temptation: "By a judgment of his own mind [mentis]," Origen says, this man "refused even to permit his thoughts [cogitationes] to consent to this sort of defiling activity."<sup>67</sup> This text yields two interrelated points in Origen's hamartiology. This particular suggestion of a defiling activity is at odds with God's law, and these impulses are mediated, judged, and rejected by the rational faculty of the soul. In the commentary he clearly affirms that while many suggestions are irrational, one is not culpable until deemed so by the rational faculty of the soul.<sup>68</sup> The thoughts are declared evil when the soul moves to recognize these irrational impulses. Now to understand the origin of these impulses we turn once again to the nature of the body and soul.

I recall the previous distinction between body qua body and body qua flesh, as this helps to understand how flesh is construed almost exclusively in negative terms.<sup>69</sup> This terminological transition is inextricably linked to the nature of the soul. The soul is unstable, and the reason for its instability is twofold: the exterior attraction to opposing options and the interior opposing tendencies. Henri Crouzel has noted this characteristic in Origen's theology: "The soul is both the scene and the stake . . . [and] by reason of the two elements or tendencies that divide it, the soul is in league with both sides."<sup>70</sup> There seems to be here at least a tacit recognition of irrationality on the part of the lower element of the soul. So we remind ourselves that just as the higher element of the soul is in close relationship to the spirit, the lower element of the soul is in close relationship to the body. The relationship between the lower element of the soul and the body is evident throughout his exegesis in the commentary. This point is illustrated in his explanation of the spiritual meaning of circumcision:

Circumcision means to cut off a certain part of the genital organ through which the succession of the human race and fleshly propagation is served. I judge that, through this, something is indicated in a figurative sense: namely, that if some uncleanness cleaves to the soul by association with the flesh,

<sup>66</sup> Ibid. 1.21. Elsewhere in the commentary Origen makes the point that resisting the temptations of the devil is actually evidence of peace (*Comm. Rom.* 4.8). See also Origen, *Princ.* 3.2.4.

<sup>67</sup> Origen, *Comm. Rom.* 4.4 (Hammond Bammel, 33:298; Scheck, 103:257). See also 1.21, where he gives an illustration of the soul that receives counsel from virtue and vice, but makes clear that the choice is subsequent to the counsel.

<sup>68</sup> Annas clears up the common misconception that "irrational" impulses are devoid of reason. Rather, the distinction is one between good reason versus bad, inadequate reason (*Hellenistic Philosophy of Mind*, 106).

<sup>69</sup> The exceptions, possibly owing to the Latin translation by Rufinus, are found in *Comm. Rom.* 3.2; 4.2; 6.1, 9, 14; 7.2, 9, 10, and 13, where "body" and "flesh" are equated. Conversely, "body" can also mean "flesh" (4.6). References to the "flesh" of Christ are entirely positive and ostensibly serve the purpose of warding off a docetic threat.

<sup>70</sup> Crouzel, *Origen*, 92.

if someone has covered his soul [anima] with a mind [sensus] that is set on seductive desire, these things ought to be cut off from it. The reason why the cutting is inflicted upon the genital organs and not upon the other bodily parts is to clarify that the vices of this sort do not come to the soul from its own essence [animae non ex propria substantia] but rather by an inborn impulse [genuino motu] and by the incentive of the flesh [incentiuo carnis].<sup>71</sup>

Here our author identifies three distinct actors in the drama of sin: 1) “its own essence” (propria substantia, viz., the soul’s higher element / *hegemonikon*), 2) “an inborn impulse” (genuino motu) or “mind” (sensus, viz., the soul’s lower element), and 3) “the incentive of the flesh” (incentiuo carnis, viz., the body).<sup>72</sup> First, recall that *sensus* usually refers to the lower element of the soul, and with this in mind, it should also be understood as this “inborn impulse” (genuino motu). Furthermore, the “inborn impulse” and the “incentive of the flesh” do not stand in apposition, but refer instead to two distinct but closely related ideas. Hence we have two actors seeking to overtake the soul: the *sensus* or *genuino motu* and the *incentiuo carnis*.

Such a manner of expressing the etiology of sin was not quite as clear to Origen earlier in his career. *First Principles* 3.4.1–5 chronicles his struggle to account for the duality of will insofar as we possess within us a will to sin. He offers three possible solutions: Plato’s tripartite division of the soul, the “two souls” theory (viz., one superior or heavenly and one lower or earthly), and finally a single soul possessing a good will while the flesh possesses an evil will.<sup>73</sup> He rejects the Platonic theory for lacking scriptural support. He explains the merits of the “two souls” theory and leaves it open-ended. He also leaves the soul/flesh theory open-ended with the caveat that it implies God created something at odds with himself.<sup>74</sup>

What eluded Origen in *First Principles* seems to achieve a greater measure of clarity in the *Commentary on Romans*. Here he may be drawing the present distinctions in order to counter the “two souls” theory and predetermined natures.

<sup>71</sup> Origen, *Comm. Rom.* 2.9 (Hammond Bammel, 16:164; Scheck, 103:155). See also Origen, *Princ.* 2.10.4.

<sup>72</sup> By referring to the *hegemonikon* as simply “soul” Origen is employing a common Stoic linguistic maneuver. See also Inwood, *Ethics and Human Action*, 29–30.

<sup>73</sup> For various assessments of Origen’s exploration of the “two souls” doctrine see José Antonio Alcáin, *Cautiverio y Redención del Hombre in Origenes* (Bilbao: Universidad de Deusto, 1973) 113–17; R. Ferwerda, “Two Souls: Origen’s and Augustine’s Attitude toward the Two Souls Doctrine; Its Place in Greek and Christian Philosophy,” *VC* 37 (1983) 360–78; and G. G. Stroumsa and Paula Fredriksen, “The Two Souls and the Divided Will,” in *Self, Soul & Body in Religious Experience* (ed. Albert I. Baumgarten et al.; Leiden: Brill, 1998) 198–217. See also Clement, *Strom.* 2.20, where he cites Basilides’s son Isidorus as an adherent of this doctrine.

<sup>74</sup> Sorabji both clarifies and obscures the problem. He acknowledges that church fathers such as Irenaeus, Clement, and Origen speak of and are faced with the heretical teaching of a second soul that is material, has a will of its own, and is directed towards evil. He is also correct to note that Origen rejects this teaching (*Emotion and Peace of Mind*, 315). However, Sorabji’s conclusion is that Origen posits a higher will of our spirit and a lower will of our soul, support for which he curiously finds in the notoriously *inconclusive* passage in *First Principles* 3.4.1–5 (Sorabji, *Emotion and Peace of Mind*, 315 n. 66).



These two works should be placed alongside the biblical text that first brought Origen into this quagmire and appears no less than seven times in *First Principles* 3.4.1–5: Gal 5:17 (“The spirit warreth against the flesh and the flesh against the spirit, so that we may not do the things that we will to do”). What may have once suggested to him that humans are endowed with a second soul now seems to suggest something different. In at least two places in the commentary (1.21; 6.1) he uses Gal 5:17 to prove his tripartite anthropology, an anthropology that posits only one soul. He seems more inclined to understand that as a result of the fall the lower element of the soul and the body have acquired sinful tendencies and are said by the apostle to have a will of their own. The soul’s lower element and the flesh belong to a world where sin, corruption, and death are commonplace.<sup>75</sup> He makes this clearer in book 7 when he suggests that part of the soul may have a “life” that acts to separate us from the love of God. He describes this as the life of sin.<sup>76</sup> In *First Principles* Origen struggles to articulate a proper dissociation of sinfulness from createdness. He is now able to do so in the *Commentary on Romans* because flesh is not created, it is acquired. Origen’s exegesis exhibits a delicate balancing act. On the one hand, he insists that the higher element of the soul is not in its essence corrupt or reprobate, a lesson he repeats ad nauseam throughout the commentary.<sup>77</sup> The essence of the soul, the *mens* or *hegemonikon*, is pure. On the other hand, he must acknowledge the presence of sinful tendencies in the lower element of the soul. Without capitulating to his deterministic enemies, he must nevertheless paint a negative picture regarding the soul’s proclivity to be led into sin.

A consideration of Origen’s exegesis of Rom 7:14–25 sheds more light on the complex relationship between the law, the *hegemonikon*, and impulses. In taking on the persona of the weak man in order to instruct the church in these matters,<sup>78</sup> “Paul” says, “For I delight in the law of God according to the inner man; but I see in my members another law fighting against the law of my mind, leading me away as a captive to the law of sin that is in my members” (Rom 7:22–23). He continues:

This will for the good he designated as the law of the mind [mentis], which law of the mind [mentis] agrees with the law of God and consents to it. But the impulses [motus] of the body and the desires of the flesh, on the other hand, he calls the law of the members, which leads the soul away captive and subjects it to the laws of sin. For it is certain that the desires of the flesh drag the soul toward sin and subject it to its laws. And just as the law of the mind [mentis], which agrees with the law of God, if it can take possession of the soul, leads it to the law of God, so also the law that is in the members, and the lust of the flesh, if it seduces the soul, would subject it to the laws of sin.<sup>79</sup>

<sup>75</sup> Origen, *Comm. Rom.* 6.12.

<sup>76</sup> Ibid. 7.10 (Hammond Bammel, 34:604; Scheck, 104:101).

<sup>77</sup> Ibid. 1.1; 2.4, 7; 4.12; 8.10.

<sup>78</sup> Ibid. 6.9.

<sup>79</sup> Ibid. (Hammond Bammel, 33:514–15; Scheck, 104:41).

Here the function of “law” is as follows: law of the mind  $\approx$  law of God.<sup>80</sup> So once again, the “law of the mind” is the higher element of the soul or *hegemonikon*. What Origen means by “law of the members” is what our previous text calls “incentive of the flesh.” What is assumed in this excerpt is once again the presence of the lower element of the soul as an actor in the drama of sin. This is so because he says the “law of the mind” or *hegemonikon* must “take possession of the soul.” This suggests, as Crouzel has maintained, that the soul is in league with both sides: spirit and flesh. Sin has occurred when the *hegemonikon* no longer has possession of the soul. Here the lower element is active in preventing the soul from agreeing with the law of God. Its presence is always one of a familial relationship with the body, and, if I can be so banal as to say so, the lower element of the soul sympathizes with the body in its desires. As such the soul is always on the precipice of inciting the passions. Conversely, as Origen states elsewhere in the commentary, sin is eliminated when “this soul *comes back to itself* and opens the door of its mind once again to piety and the virtues.”<sup>81</sup> Thus we see how the lower element, by virtue of its fallen nature,<sup>82</sup> associates itself with the law of the members.

Origen does not consider the “impulses” (*motus*) of the body and the desires of the flesh to be *ipso facto* evil. After all, the apostle endured both external and internal afflictions “for the sake of the self-control of his body and his endeavors for the highest instruction.”<sup>83</sup> Conversely, the one who sins is the one who is “ensnared by the allurements of the present life.”<sup>84</sup> What is evil, and therefore sin, is when the soul, seduced by such an attraction, moves in the direction and thus under the domain of these bodily desires and impulses. If Origen attributes evil to the impulse he does so knowing, from extensive experience and speaking after the fact, that following such an impulse will lead to evil.<sup>85</sup> A “small detour” is enough to usurp nature and lead the soul into death.<sup>86</sup> Persistent acquiescence to these suggestions (impulses) is to be under the dominion of sin. This failure to properly control nature’s inducement is characteristic of the body becoming flesh. It is an act first suggested by the flesh’s cohort, the lower element of the soul. In and of itself the body does not have its own “will,” but as we have seen its “will”

<sup>80</sup> Sometimes the two are described as virtually the same and brought together seamlessly (5.6; 6.9) and other times they are basically equated at the outset (6.9; 6.12).

<sup>81</sup> [Emphasis mine.] “Quodsi in semet ipsam regressa haec anima pietati rursus et uirtutibus mentis suae ianuam pandat none ingressa pietas impietatem continuo depellet” (Origen, *Comm. Rom.* 2.1 [Hammond Bammel, 16:100; Scheck, 103:103]).

<sup>82</sup> That is, it was added to the “mind”/“intellect” as a result of the preexistent fall. See also Origen, *Princ.* 2.8.3.

<sup>83</sup> Origen, *Comm. Rom.* 4.9 (Hammond Bammel, 33:343; Scheck, 103:291).

<sup>84</sup> Ibid. 4.11 (Hammond Bammel, 33:349; Scheck, 103:295).

<sup>85</sup> He speaks of the law of the members as always “suggesting the desires of the flesh” (*desideria carnis suggerens*), and waiting for decisive action on the part of the soul (ibid. 5.6 [Hammond Bammel, 33:414; Scheck, 103:347]).

<sup>86</sup> Ibid. 5.7 (Hammond Bammel, 33:418; Scheck, 103:350).

is the personification of the lower element of the soul due to their close association. When these two usurp the order of nature then sin is said to establish dominion.

Despite the familiarity with sin that some people exhibit, the activity of the moral life is not predetermined. The apostle neither teaches nor intimates that the body and the soul are destined for a certain fate irrespective of people's desires. Origen is clear that humanity has in common a single nature that is suited equally for salvation or perdition.<sup>87</sup> His teaching on the olive trees (Rom 11:16–24) is concentrated around the idea that the soul has the ability and responsibility to guide the impulses in a godly direction. Incorporating Matt 12:33 for support he argues that a tree (soul) is made good or evil by its choices, not on account of its birth.<sup>88</sup> Origen is clear: the impulse is only evil when the rational faculty makes a choice that is contrary to the law of God. All rational beings possess the ability to guide the soul. The soul sins by following an impulse that, if carried to its fulfillment, will lead to moral failure. These moral decisions define the soul,<sup>89</sup> and a negative decision by the soul is always caused by a lack of faith.<sup>90</sup> In fact, any good or evil moral action taken in this life, according to Origen's reading of Rom 2:15–16, makes an indelible imprint on the soul to accuse or defend it on the day when God will judge the secrets of humanity.<sup>91</sup> Those who consistently fail in this regard are said to lack the second (spiritual) circumcision and are "enslaved to Egyptian customs and barbaric mental inclinations [motus animi barbaros seruet]."<sup>92</sup>

Origen's tripartite anthropology is essential in understanding his teaching on sin. The lower element of the soul acts in collusion with the body to provide the initiation of sin. The body's role in this act is theologically so intimately bound up with the lower element of the soul that making distinctions is of little importance to him. The passions are incited when the *hegemonikon* makes an improper judgment to acquiesce to these impulses and moves in the direction of the body.

## ■ Sin and Moderation

In what follows I will move on from an emphasis on some of the ontological aspects of sin to a more thoroughly ethical discussion. My investigation of volitional sin in Origen's *Commentary on Romans* has testified to some reliance on Stoic thought forms. But as Origen continues to wrestle with the apostle's thought in Romans he turns to Aristotle for further clarification. His incorporation of the Aristotelian conception of moderation will play an important role in the remainder of this

<sup>87</sup> Ibid. 8.10 (Hammond Bammel, 34:692; Scheck, 104:176).

<sup>88</sup> Ibid. (Hammond Bammel, 34:693; Scheck, 104:176). See also Matt 12:33: "Either make the tree good and its fruit good; or make the tree bad, and its fruit bad; for the tree is known by its fruit" (RSV).

<sup>89</sup> Origen, *Comm. Rom.* 2.1; 7.14.

<sup>90</sup> Ibid. 10.5. This lack of faith on the part of the soul is exemplified by its loss of the contemplation of the cross of Christ (ibid. 6.1).

<sup>91</sup> Ibid. 2.7; 9.41. See also Origen, *Princ.* 2.10.4.

<sup>92</sup> Origen, *Comm. Rom.* 2.9 (Hammond Bammel, 16:168; Scheck, 103:158).



investigation. Simply stated, one violates nature, and therefore incites the passions, when one lacks moderation. Here I recall Origen's third definition of sin: "One should know, however, that other learned men use this definition as well, that the nature and cause of sin is in whether something is added to or subtracted from the virtues."<sup>93</sup> This definition is found in the midst of a protracted exhortation on the value of the virtue of "moderation" (*temperantia*), and stems from the apostle's command in Rom 12:3: "Do not be wiser than you ought to be, but be wise in moderation."

Origen asserts that virtues become vices when not governed by moderation. Thus the over-realization of justice leads to injustice and the over-realization of prudence leads to imprudence. He borrows a page out of Aristotle's *Nicomachean Ethics* when he argues that excess and deficiency destroy perfection, while adherence to the mean preserves it.<sup>94</sup> But virtue is always rooted in cosmology and he consistently reminds his readers that a proper understanding of the virtues is a proper understanding of the law of God.<sup>95</sup> We begin to glimpse how the third definition complements the first two by considering how moderation, as dictated by natural law (i.e., philosophers knew this) and confirmed in Paul, plays a significant role in delineating virtue and vice in Origen's thought. But the immediate arena of the working out of moderation is the human body. Since nature provides discernible bounds of right and wrong (further illumined by Scripture<sup>96</sup>), his ideal of moderation precludes the existence of excess (or deficiency) in a manner that violates nature and allows the soul to succumb to the excessive needs of the body. The absence of moderation indicates the presence of the passions. Therefore as Origen considers the passage in Rom 6:1–2—living in sin and dying to sin—he makes the argument that living in sin is indicative of an unstable soul that usurps the law of nature and inflames the passions:

The flesh has natural appetites for food and drink which need to be kept within certain limits of satisfaction. But if someone, by the enticement of sin, should exceed these limits, he is no longer yearning after food and drink, a flesh which suffices nature, but after excess and drunkenness. In a similar way there even exists in the flesh a natural drive by which it demands to be united with a woman for the sake of procuring offspring. But if he should be turned aside from the law, sin enticing in this occasion, and his impulses [motus] of natural lust should be roused to illicit things, he lives to sin, since

<sup>93</sup> Ibid. 9.2 (Hammond Bammel, 34:722; Scheck, 104:200).

<sup>94</sup> Aristotle, *Eth. Nic.* 2.6.9, in *Nicomachean Ethics* (trans. H. Rackham; LCL 19; London: William Heinemann, 1926). See also 3.10.1: "Now we have said that Temperance (σωφροσύνη) is the observance of the mean (μεσότης) in relation to pleasures." For more on this theme in Aristotle, see 3.11.3; 3.12.9; and 4.4.4. Caroline P. Hammond Bammel has rightly identified this Aristotelian theme in Origen's commentary (*Der Römerbrieftext des Rufin und seine Origenes-Übersetzung* [AGBL 10; Freiburg: Herder, 1985] 226–27).

<sup>95</sup> E.g., Origen, *Comm. Rom.* 6.9.

<sup>96</sup> Ibid. 2.5.

he is not obeying the law of God in these instances but the persuasions of sin [peccati persuasionibus].<sup>97</sup>

We now begin to see more clearly the confluence of Origen's three aforementioned definitions of sin. The first two definitions bring into sharp relief the fact that any act contrary to nature is a sin. These are rather austere descriptions of sin. What brings out their force, and therefore their theological color, is how he complements them with a theology of moderation. This all comes together in the above text. Origen here repeats that the standard of nature is not to be breached, and if it is breached one has allowed otherwise innocuous impulses to be "roused to illicit things." For Origen moderation cuts the Gordian Knot of ethics. This much is evident by the overwhelming emphasis he places on the concept throughout the commentary. Provision within the bounds of moderation is the focal point of his exegesis of Rom 8:12–13 when encountering the warning not to "live according to the flesh." Origen notes how the apostle makes the distinction between provision with respect to necessary matters and provision with respect to lusts.<sup>98</sup> His comments on Rom 13:14 likewise demonstrate his emphasis on this delicate ethical balance. He notes how the apostle practices his "customary moderation" with regard to necessities, but no provision should be made for "pleasures and excess and every kind of lust."<sup>99</sup>

Moderation is the goal of ethical living. The standard of nature—indeed nature itself—is usurped when the impulses are roused to excessive measures. Once again I need to draw attention to the fact that our author does not suggest that nature's inducement is evil. Nature's inducement is what maintains life: food and drink for the body and a natural drive for reproduction.<sup>100</sup> Provision is requisite for the terrestrial life. Too much or too little provision is sin, or, as Lorenzo Perrone has aptly stated, sin is the abandonment of the "virtuous 'golden mean.'"<sup>101</sup> Achieving the "golden mean" is difficult enough for the Christian and nearly impossible prior to conversion. Before conversion we were "impelled by the passions . . . [and] . . . bearing fruit . . . for death."<sup>102</sup> "Overwhelmed" by vices, we were nevertheless "not without our own active engagement in sin."<sup>103</sup> Free will

<sup>97</sup> Ibid. 5.7 (Hammond Bammel, 33:418; Scheck, 103:350). See also Origen, *Princ.* 3.2.2.

<sup>98</sup> Origen, *Comm. Rom.* 6.14 (Hammond Bammel, 33:539; Scheck, 104:58).

<sup>99</sup> Ibid. 9.34 (Hammond Bammel, 34:761; Scheck, 104:233). Here Origen once again uses "flesh" in an equivocal manner denoting both "body" and "flesh." For more on excess and moderation, see *ibid.* 1.21; 2.1.

<sup>100</sup> Origen, *Princ.* 3.2.2.

<sup>101</sup> Lorenzo Perrone, "Peccato," in *Origene. Dizionario la cultura, il pensiero, le opere* (ed. Adele Monaci Castagno; Rome: Città Nuova Editrice, 2000) 346: "Soggiacendo agli impulsi della carne, l'uomo soddisfa in eccesso i propri bisogni naturali (*Prin* 3, 2, 2), come più in generale il peccato s'identifica con l'abbandono del 'giusto mezzo' virtuoso (*CRm* 9, 2)." See also Teichtweier, *Die Sündenlehre des Origenes*, 183–84.

<sup>102</sup> Origen, *Comm. Rom.* 6.7 (Hammond Bammel, 33:485; Scheck, 104:21). Cf. 2.5 for an exception to this rule.

<sup>103</sup> Ibid. 6.9 (Hammond Bammel, 33:510; Scheck, 104:38); 5.2 (Hammond Bammel, 33:398; Scheck, 103:333), respectively. See also 5.3, 10.

is present but considerably weakened.<sup>104</sup> Thus the will's inability to choose virtue consistently, in true Aristotelian fashion, stems from its lack of habitual training.<sup>105</sup> The soul in the habit of practicing vice finds it difficult to eschew its former life and turn to the practice of virtue.<sup>106</sup> Furthermore, any struggle to maintain the "golden mean" is a struggle always related to the vicissitudes of the body. The ideal is always in jeopardy because the struggle to survive necessitates subjecting the soul to testing on a regular basis. The *hegemonikon* is incessantly active in making ethical decisions, for "it is impossible that a soul exists at any time without having a ruler."<sup>107</sup> Just as the advanced climber continuously makes decisions and transmits those decisions—almost unconsciously—to the arms and legs, so also the advanced soul is characterized by the filling of the mind with virtue and Christ in order to ward off the continuous impulses of the body that would suggest contrary behavior.<sup>108</sup>

Origen is, however, always cognizant that God's purpose for our terrestrial life is to train us in the virtues and unite us with him.<sup>109</sup> Spiritual progress is realized when the soul brings these impulses into conformity with the law of God. Once the soul is "converted to better things," the "will for the good is (now) present in him."<sup>110</sup> When one is circumcised in the heart, Jesus "cuts off the habits and passions of the old man and the vices of the flesh."<sup>111</sup> Such progress finds further expression in the filling of the individual with the Spirit, a process that puts to death the deeds of the flesh. While Origen stresses the importance of individual repentance in this process, he recognizes that the "golden mean" is made possible through grace.<sup>112</sup> This also leads us to a critical difference between Origen and

<sup>104</sup> Ibid. 6.9.

<sup>105</sup> Aristotle, *Eth. nic.* 2.1.3; 7.10.4.

<sup>106</sup> See Origen, *Comm. Rom.* 6.9–11, where Origen admits that the will struggles to choose the good in the early stages of conversion because it is not in the habit of practicing virtue.

<sup>107</sup> Ibid. 5.6.

<sup>108</sup> Ibid. 4.9; 5.6, 10.

<sup>109</sup> "The clothing of the fallen rational beings in bodies could be an expression of God's mercy towards the fallen beings, because the bodies seem to be necessary for the return of the beings to their former condition" (Jacobsen, "Origen on the Human Body," 649). Henry Chadwick notes, "Origen begins from the basic fact that the nature of σῶμα is impermanent; it is in a continual state of change and transformation, caused by the food which is eaten, absorbed by the body, and turned into tissue" ("Origen, Celsus, and the Resurrection of the Body," *HTR* 41 [1948] 83–102, at 86). See also Origen, *Comm. Cant.* 6.1, where he refers to our bodies as "in a state of flux and . . . wasting away" (as translated in *An Exhortation to Martyrdom, Prayer, First Principles: Book IV, Prologue to the Commentary on the Song of Songs, Homily XXVII on Numbers* [trans. Rowan A. Greer; CWS; Mahwah, N.J.: Paulist Press, 1979] 93).

<sup>110</sup> Origen, *Comm. Rom.* 6.4 (Hammond Bammel, 33:471; Scheck, 104:12); 6.9 (Hammond Bammel, 33:515; Scheck, 104:42), respectively. In *Comm. Rom.* 5.9 Origen draws the distinction between the old man and the new man, the former characterized by members that were enslaved to sin.

<sup>111</sup> Ibid. 2.9 (Hammond Bammel, 16:168; Scheck, 103:158). Margeurite Harl observes, "Origène est un optimiste, pour qui la lutte contre les passions est une première étape, vite dépassée, de la progression intérieure" (*Origène et la fonction révélatrice du Verbe incarné* [Patristica Sorbonensia 2; Paris: Seuil, 1958] 321).

<sup>112</sup> Origen, *Comm. Rom.* 6.14. See also Origen, *Princ.* 3.2.2, where he says that mere human



his predecessor. Clement follows the Stoics in seeing the goal of progress in this life as achieving *apatheia* (ἀπάθεια), freedom from the passions. Origen, on the other hand, urges *metriopatheia* (μετριοπάθεια), a restraint to be imposed on the passions.<sup>113</sup> One does not therefore find any references to the eradication of the passions in the *Commentary on Romans*. Rather their existence is assumed and their restraint is exhorted.

His final exhortation to the life of moderation provides Origen the opportunity to situate his argument within the context of our created identity. His comments on Rom 13:13 reveal that “excess and debauchery” are more “befitting of wild animals and beasts than rational [rationabilibus] human beings.”<sup>114</sup> This reveals how Origen considers a lack of moderation to be a denial of the image of God in the person. Being “rational and intellectual” (rationabilis et mens) the “inner man” is able to have knowledge of God and has the capacity for receiving the Holy Spirit.<sup>115</sup> Therefore a lack of moderation runs counter to one of the defining characteristics of humanity: rationality. The body’s natural desires are variegated and impetuous — indeed often irrational — unless controlled by *intellectus* and *prudentia*.<sup>116</sup> Therefore,

will is incapable of completing the good act, for it must be brought to perfection by divine help.

<sup>113</sup> “While Clement always speaks of *apatheia* as the essential virtue of the spiritual man, occurrences of *apatheia* and *apathes* in Origen’s writings can be counted on the fingers of one hand and his teaching is nearer to *metriopatheia*, the restraint to be imposed on the passions, rather than *apatheia* itself” (Crouzel, *Origen*, 7). Johannes Quasten, perhaps laying more emphasis on the ascetic program per se, is not sufficiently judicious in evaluating Origen’s material when arguing “the goal is the complete freedom from passions, the ἀπάθεια, the total destruction of πάθη. In order to reach it, there must be a perpetual mortification of the flesh” (*The Ante-Nicene Literature after Irenaeus* [vol. 2 of *Patrology*; Utrecht: Spectrum, 1953] 96). See also, e.g., Clement, *Strom.* 3.7.57; 4.23.152 and Origen, *Cels.* 1.64. Marcia L. Colish notes Jerome’s characterization and vitriolic critique of Pelagian sinlessness being an outcropping of the Stoic idea of *apatheia*. Colish calls into question both Jerome’s understanding of Origen as a proponent of *apatheia* and the general teachings of the Stoics and Pelagians in this regard (*Stoicism in Christian Latin Thought through the Sixth Century* [vol. 2 of *The Stoic Tradition from Antiquity to the Early Middle Ages*; Leiden: Brill, 1985] 77–78). See also J. N. D. Kelly, *Jerome: His Life, Writings, and Controversies* (New York: Harper & Row, 1975) 315.

<sup>114</sup> Origen, *Comm. Rom.* 9.33 (Hammond Bammel, 34:760–61; Scheck, 104:232). See also Clement, *Paed.*, 1.13.

<sup>115</sup> Origen, *Comm. Rom.* 7.2 (Hammond Bammel, 34:565; Scheck, 104:69). For rationality as integral to the image of God, see *ibid.* 1.19; 7.2; *Princ.* 1.8.4.

<sup>116</sup> Origen, *Comm. Rom.* 9.23 (Hammond Bammel, 34:746). In *Comm. Rom.* 1.20 (Hammond Bammel, 16:86; Scheck, 103:92) Origen says some have “destroyed the image of God within themselves” (ipsis Dei imaginem perdiderunt). For a thorough discussion of this in Origen’s theology, see Crouzel, *Théologie de l’image*, 206–11, and for its influence in subsequent thought, see Elizabeth A. Clark, *The Origenist Controversy: The Cultural Construction of an Early Christian Debate* (Princeton, N.J.: Princeton University Press, 1992) 43–84, 101–2. Origen notes that another effect of sin is that it ruins the spiritual senses (*Comm. Rom.* 4.5). For more on the spiritual senses in Origen’s theology see John M. Dillon, “Aisthêsis Noêtê: A Doctrine of Spiritual Senses in Origen and in Plotinus,” in *Hellenica et Judaica* (ed. André Caquot et al.; Louvain: Peeters, 1986) 443–55; and Karl Rahner, “The Spiritual Senses in Origen,” in *Theological Investigations 16: Experience of the Spirit* (trans. David Morland, O.S.B.; London: Darton, Longman & Todd, 1979), 81–103, esp. 90–91 (originally published in expanded form as “Le début d’une doctrine des cinq sens spirituels

sin is to favor the irrational, indeed it gives credence to that which is irrational and disorderly, and the soul is characterized as fleshly when it gives its assent to that which is fluctuating and ephemeral. Having done so the soul now wishes to be identified with vice, irrationality, and death. That the soul associates itself with that which is irrational, ephemeral, and excessive explains the notable absence of any mention by Origen of the human spirit. As I stated earlier in this study, when the soul does not follow the spirit's persuading influence, the latter simply recedes into the background and remains in a state of dormancy.

But does such an emphasis on the abiding existence of the passions lead Origen to a disparaging theology of the body akin to those of the very adversaries he seeks to challenge?<sup>117</sup> Select passages may suggest there is something inherently wrong with the body. Unqualified remarks creep into the commentary where Origen seems both to affirm and deny what nature dictates with regard to sexual reproduction.<sup>118</sup> But this is not the whole picture. Origen's rhetoric often betrays his intent. So while he at times agrees with the Stoics that some matters pertaining to the individual are "indifferent,"<sup>119</sup> many of the very needs of the body that sustain life are also a vexing reality of life in this world because the body must always be kept within certain limits. This is a standing temptation insofar as the complete elimination of sin and death in the believer is an expectation only of the future kingdom.<sup>120</sup> Furthermore, often he employs rhetoric to indicate a body that has already committed sin, and is therefore understood as flesh. But this rhetoric does not betray a basic fact: sin derives not from the body, but from the heart.<sup>121</sup> There are, in fact, several positive affirmations of the goodness of the body.<sup>122</sup> But insofar as he is fully aware that "all creation groans," this goodness can, admittedly, be difficult to see without the eyes of faith. We are reminded that the body is a gift of God to unite us with him and is therefore necessary for this pilgrimage. If bodily existence emerges as a source of

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chez Origène," *Revue d'ascétique et de mystique* 13 [1932] 113–45).

<sup>117</sup> Blanc notes, "Il arrive cependant à Origène de manifester à l'égard du corps et de la chair un mépris qui peut être dû à la fois à l'influence des gnostiques *et* à sa lutte contre eux" (L'attitude d'Origène," 848) [italics in original]. Blanc, however, provides little evidence for this claim.

<sup>118</sup> See Origen, *Comm. Rom.* 7.2 (Hammond Bammel, 34:566; Scheck, 104:70), where he also laments, "What great futility is contained in these things." For more on the exegesis of this section, see Paul Lebeau, "L'interprétation origénienne de Rm 8. 19–22," in *Kyriakon. Festschrift Johannes Quasten* (ed. Patrick Granfield and Josef A. Jungmann; 2 vols.; Münster: Aschendorff, 1970) 1:336–45. For this same tension in Clement, see John Behr, *Asceticism and Anthropology in Irenaeus and Clement* (Oxford: Oxford University Press, 2000) 148.

<sup>119</sup> Origen, *Comm. Rom.* 4.9 (Hammond Bammel, 33:338; Scheck, 103:287): "Other things, however, are indifferent [indifferentia], that is to say, they are to be designated neither good nor evil, as are wealth, physical beauty, strength, height, and those things which serve the needs of the body." See also Origen, *Comm. Rom.* 4.9; 6.6; 10.3; *Cels.* 4.45; and Teichtweier, *Die Sündenlehre des Origenes*, 176–85. For more on the Stoic conception of *indifferentia*, see, e.g., Arius Didymus, *Ecl.* 5a; 7a; Epictetus, *Disc.* 1.30.3; 2.9.15; and Marcus Aurelius, *Med.* 6.45; 11.16.

<sup>120</sup> Origen, *Comm. Rom.* 5.3, 9, 10.

<sup>121</sup> *Ibid.* 2.9.

<sup>122</sup> E.g., *ibid.* 1.14; 6.9; 9.42.

frustration, it is also a challenge, for as Peter Brown remarks, it is “a frontier that demanded to be crossed.”<sup>123</sup>

So the body is no more culpable than anything else that lacks rationality or free will. The decision to sin belongs to the soul. The soul, as it were, allows access for the body to exceed the bounds of nature. Original sin produced instability through corruption and death. Recalling Crouzel’s observation that the soul is in league with both sides, we can deduce that it is therefore no neutral bystander. Its inherent instability makes it both an advocate for virtue and a willing partner for vice. Despite its instability and repeated failure to do the good, Origen often emphasizes the desires of the body over against the soul in order to avoid any denigration of the latter that may have a familiar ring to his deterministic adversaries. Although the “noble and rational” soul is subjected unwillingly,<sup>124</sup> it nevertheless implicates itself through its choice to acquiesce to the irrational impulses of the body: “It is the thought and the mind that fail to perceive correctly what defiles the man.”<sup>125</sup> The soul must therefore make provision for the body without validating these irrational impulses that seek to bring the individual into disrepute.

## ■ Conclusion

The text of the Epistle to the Romans and the immediate concerns of his audience shaped Origen’s theology of sin in his commentary. I have shown that this conception of volitional sin lends itself to three dominant emphases. God’s law is the perfect and discernible standard that humanity is not to contravene. Such a contravention occurs when the lower element of the soul and the irrational impulses of the body gain favor by the soul’s higher element. This usurpation of the soul is characterized by a failure to practice moderation insofar as the soul has chosen that which is excessive or deficient rather than following God’s law. This understanding of the apostle’s thought proved to be a substantial contribution to Christian identity in the third century. Evincing a balance and sensitivity to the needs of his audience, Origen bequeathed to the church an interpretation of the apostle that may have elicited a reading by both Augustine and Pelagius.<sup>126</sup> The present study has sought to fill a critical lacuna in contemporary scholarship addressing Origen. But the work is far from complete. Considerable work remains to be done on his *Commentary on*

<sup>123</sup> Brown, *The Body and Society*, 164. See also Origen, *Comm. Rom.* 3.2.

<sup>124</sup> Origen, *Comm. Rom.* 7.2 (Hammond Bammel, 34:566; Scheck, 104:70).

<sup>125</sup> Ibid. 9.42 (Hammond Bammel, 34:785; Scheck, 104:252).

<sup>126</sup> The most relevant studies are Caroline P. Hammond Bammel, “Augustine, Origen and the Exegesis of St. Paul,” *Augustinianum* 32 (1992) 341–68; eadem, “Justification by Faith in Augustine and Origen,” *JEH* 47 (1996) 223–35; eadem, “Rufinus’ Translation of Origen’s *Commentary on Romans* and the Pelagian Controversy,” in *Storia ed esegesi in Rufino di Concordia* (Udine: Arti grafiche friulane, 1992) 131–42; Thomas P. Scheck, *Origen and the History of Justification: The Legacy of Origen’s Commentary on Romans* (Notre Dame, Ind.: University of Notre Dame Press, 2008) 63–103; and Alfred J. Smith, “The Latin Sources of the Commentary of Pelagius on the Epistle of St Paul to the Romans,” *JTS* 19 (1917–1918) 162–230; 20 (1918–1919) 55–65, 127–77.



*Romans*. There are, however, encouraging signs that Origen's wider reading of the apostle has gained traction in the scholarly community. This promises to provide much insight into the great Alexandrian's thought.

# Albert Schweitzer and the Jews<sup>\*</sup>

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Albert Schweitzer's engagement with Judaism, and with the Jewish community more generally, has never been the subject of substantive discussion.<sup>1</sup> On the one hand this is not surprising — Schweitzer wrote little about Judaism or the Jews during his long life, or at least very little that was devoted principally to those subjects. On the other hand, the lack of a study might be thought odd — Schweitzer's work as a New Testament scholar in particular is taken up to a significant degree with presenting a picture of Jesus, of the earliest Christian communities, and of Paul, and his scholarship emphasizes the need to see these topics against the background of a specific set of Jewish assumptions. It is also noteworthy because Schweitzer married a baptized Jew, whose father's academic career had been disadvantaged because he was a Jew. Moreover, Schweitzer lived at a catastrophic time in the history of the Jews, a time that directly affected his wife's family and others known to him. The extent to which this personal contact with Jews and with Judaism influenced Schweitzer either in his writings on Judaism or in his life will in part be the subject of this article.

This article, then, is predominantly a piece of intellectual biography that attempts to illuminate a significant, yet under-studied, aspect of one of the twentieth century's

<sup>\*</sup> I would like to thank Dr. Susanna Avery-Quash, Prof. Nicholas de Lange, Dr. Lars Fischer, Dr. Simon Gathercole, Prof. Ruth Harris, Prof. William Horbury, and the anonymous referees for looking at versions of this article and helping me to improve it.

<sup>1</sup> For partial exceptions see Verena Mühlstein, *Helene Schweitzer Bresslau. Ein Leben für Lambarene* (Munich: Beck, 1998) 22–28 and 225–33; Nils Ole Oermann, *Albert Schweitzer. Eine Biographie* (Munich: Beck, 2009) 213–21; and Thomas Suermann, *Albert Schweitzer als "homo politicus". Eine biographische Studie zum politischen Denken und Handeln des Friedensnobelpreisträgers* (Berlin: BWV, 2012) 165–90. In the main, these discussions, the most thorough of which is Suermann's (his work came out after I had completed this article), are taken up with Schweitzer's reaction to the rise of Nazism and do not concern themselves with his writings, their implications for his understanding of Judaism, or the extent to which these might have affected his reaction to the Nazis' anti-Semitic policies.

most important public intellectuals. In accomplishing its task, it will look again, and from a different perspective from the normal one, at Schweitzer's New Testament oeuvre, including his highly influential *Von Reimarus zu Wrede. Eine Geschichte der Leben-Jesu-Forschung* and *Die Mystik des Apostels Paulus*.<sup>2</sup> The attitude that Schweitzer takes toward the Jews within these works, either explicitly or implicitly, will be placed in the wider context of contemporaneous New Testament scholarship, especially in Germany, and its understanding of ancient Judaism, a subject that in recent times has become highly contested.<sup>3</sup> An attempt will be made to show the distinctiveness of Schweitzer's position on this matter. Consonant with this interest, the article constitutes a case-study of Jewish-Christian relations in the early to mid-twentieth century, albeit through the prism of a singular and atypical personality.

### ■ Judaism in Schweitzer's New Testament Scholarship

Arguably, Albert Schweitzer's most important contribution to academic study comes in his works on Jesus and Paul, which were published between 1901 and 1930.<sup>4</sup> These should be understood as a whole for they constitute an interconnected

<sup>2</sup> See n. 4 below for full references to these works.

<sup>3</sup> Particular attention might be drawn to Susannah Heschel, *Abraham Geiger and the Jewish Jesus* (Chicago: University of Chicago Press, 1998), the conclusion of which formed the inspiration for her *The Aryan Jesus: Christian Theologians and the Bible in Nazi Germany* (Princeton: Princeton University Press, 2008), which addresses the question of New Testament scholarship and anti-Judaism more directly. An extensive response to this latter work, encompassing many of the major issues relating to the subject, was written by Robert Morgan, "Susannah Heschel's Aryan Grundmann," *JSNT* 32 (2010) 431–94. Heschel in turn responded to Morgan in "Historiography of Antisemitism versus Anti-Judaism: A Response to Robert Morgan," *JSNT* 33 (2011) 257–79. Another important and recent contribution to the subject is Anders Gerdmar, *Roots of Theological Anti-Semitism: German Biblical Interpretation and the Jews, from Herder and Semler to Kittel and Bultmann* (Studies in Jewish History and Culture 20; Leiden: Brill, 2009), which contains a detailed bibliography.

<sup>4</sup> These publications include *Das Abendmahlsproblem auf Grund der wissenschaftlichen Forschung des 19. Jahrhunderts und der historischen Berichte* (Heft 1 of *Das Abendmahl im Zusammenhang mit dem Leben Jesu und der Geschichte des Urchristentums*; Tübingen: Mohr Siebeck, 1920; ET *The Problem of the Lord's Supper according to the Scholarly Research of the Nineteenth Century and the Historical Accounts* [ed. John Reumann; trans. A. J. Mattill; vol. 1 of *The Lord's Supper in Relationship to the Life of Jesus and the History of the Early Church*; Macon, Ga.: Mercer University Press, 1982]); *Das Messianitäts- und Leidensgeheimnis. Eine Skizze des Lebens Jesu* (Tübingen: Mohr Siebeck, 1901; ET *The Mystery of the Kingdom of God: The Secret of Jesus' Passion and Messiahship* [ed. and trans. Walter Lowrie; London: A&C Black, 1925]); *Von Reimarus zu Wrede. Eine Geschichte der Leben-Jesu-Forschung* (Tübingen: Mohr Siebeck, 1906; 2nd ed. 1913; ET *The Quest of the Historical Jesus: A Critical Study of Its Progress from Reimarus to Wrede* [trans. W. Montgomery; London: A&C Black, 1910]; 2nd ET *The Quest of the Historical Jesus: First Complete Edition* [ed. and trans. John Bowden et al.; London: SCM, 2000]); *Geschichte der paulinischen Forschung von der Reformation bis auf die Gegenwart* (Tübingen: Mohr Siebeck, 1911; ET *Paul and His Interpreters: A Critical History* [trans. W. Montgomery; London: A&C Black, 1912]); *Die psychiatrische Beurteilung Jesu. Darstellung und Kritik* (Tübingen: Mohr Siebeck, 1913; ET *The Psychiatric Study of Jesus: Exposition and Criticism* [trans. Charles R. Joy; Boston: Beacon, 1948]); and *Die Mystik des Apostels Paulus* (Tübingen: Mohr Siebeck, 1930; ET *The Mysticism of Paul the Apostle* [trans. W. Montgomery; New York: Macmillan, 1955]). The fact that Schweitzer's final work that



account of Christian origins. In his understanding both of Jesus's ministry and the theology of Paul, Schweitzer attributes a central role to the idea of eschatology and, insofar as he invokes the use of parallel material to explain the thoughts of these two individuals, he uses Jewish material.

### *Jesus*

Schweitzer understands Jesus as a messianic figure who believed that God's kingdom would arrive in the immediate future, bringing about God's final act of redemption. When this occurred, Jesus, who conceived of himself as the Messiah but only in secret, would be transformed into the Son of Man, conceived of as a heavenly messianic figure, and his followers would also undergo a transformation. In the midst of his ministry, Jesus sent out his followers to announce the arrival of this kingdom and to call the people to repentance in the face of the coming judgment (Matt 10:23), believing that, before they returned, the kingdom would have arrived. But it failed to come, and Jesus, experiencing a moment of crisis, vowed to bring about its arrival by engineering his own death, a decision arrived at through reflection on the Suffering Servant in Deutero-Isaiah.<sup>5</sup> His final journey to Jerusalem was the beginning point of a strategy to provoke the authorities into killing him. Against this reconstructed background, the key to understanding the Last Supper lies in Jesus's words about not drinking again of the vine until he had drunk of it in paradise (Mark 14:25 and parallels), understood by Schweitzer to mean that Jesus's death would bring about the advent of the kingdom.

This account, which attributes a high degree of historicity to the Synoptic Gospels (in particular to Matthew and Mark), is based on a view that Jesus operated within a body of thought that was eschatological and Jewish, or "Jewish-eschatological," as Schweitzer puts it. Thus, Schweitzer, in order to lay out Jesus's aims, starts with a discussion of the development of Jewish eschatology from the prophets'

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was exclusively on the New Testament, *Die Mystik des Apostels Paulus*, was published in 1930 can be misleading. In fact Schweitzer had arrived at most of his thoughts on this subject by 1910, and probably before that. That this work was only published in 1930 was the result of the course that Schweitzer's life took once he became a medical missionary in Africa in 1913. On this see James Carleton Paget, "Schweitzer and Paul," *JSNT* 33 (2011) 223–56. Schweitzer did continue to write on the New Testament, in works not exclusively devoted to this subject, after 1930 but such writings generally repeat what he had argued before. See, for instance, Albert Schweitzer, *Reich Gottes und Christentum* (ed. Ulrich Luz, Ulrich Neuenschwander, and Johann Zürcher; Werke aus dem Nachlass; Munich: Beck, 1995; ET *The Kingdom of God and Primitive Christianity* [ed. Ulrich Neuenschwander; trans. L. A. Garrard; New York: Seabury, 1968]). In this work Schweitzer changes his opinion on the role of Deutero-Isaiah as a motive behind Jesus's decision to die, but much remains the same (see 154). All works that have been translated will be cited in their English versions.

<sup>5</sup> "Wrestling with the fact that the Kingdom of God still fails to appear there dawns on Him the perception that it can only come when He, as the Messiah-to-be, has by suffering and death made atonement for those who have been elected to the Kingdom, and thereby saved them from the necessity of going through the pre-Messianic Tribulation" (Albert Schweitzer, *Out of my Life and Thought* [trans. C. T. Campion; New York: Holt, 1949] 39). (For the original see Albert Schweitzer, *Aus meinem Leben und Denken* [Leipzig: Meiner, 1931].)

understanding of the kingdom, beginning with Amos and running through the book of Daniel and later apocalyptic writings such as *4 Ezra* and *2 Baruch*.<sup>6</sup> In this context Schweitzer observes a movement from a this-worldly expectation brought about by changed ethical circumstances (the prophetic view), to one that posits an otherworldly, heavenly reality brought about by a heavenly messianic figure (associated with Daniel and given some expression in Enoch), to one that synthesizes the two previous views by positing a temporary messianic kingdom followed by a transcendent and eternal reality in a general resurrection of the dead (associated with *4 Ezra* and *2 Baruch*)—the position that Schweitzer thought prevailed at the time of Jesus.<sup>7</sup>

The similarities between Jesus's eschatological vision and the perspectives described above is not the subject of the present article, but a few observations are necessary. While Schweitzer is clear that Jesus operated within the basic framework of an eschatology that he had inherited,<sup>8</sup> he argues that Jesus substantially revised aspects of that eschatological inheritance<sup>9</sup> or, at least, that his eschatological views show clear differences from those known to have existed at the time in which he lived. These relate both to Jesus's understanding of the character of the Messiah (an earthly secret appearance, followed by a transcendent heavenly transformed state in the new kingdom) and to the nature of the new kingdom (a single, otherworldly kingdom preceded by a general resurrection and marked by the transformed state of the predestined, a kingdom that will not just include the last generation but all previous generations).<sup>10</sup> The fact that Jesus, along with John the Baptist, saw the coming kingdom as imminent also, according to Schweitzer, marked him out for messianic expectations that were little in evidence among Jesus's contemporaries.<sup>11</sup> Most of the distinctive elements in Jesus's thought show him, in Schweitzer's view, to be a brilliant and sovereign spirit and the promulgator in some respects of

<sup>6</sup> For slightly different versions of Schweitzer's reconstruction of the history of Jewish eschatology, see, inter alia, Schweitzer, *Quest* (2nd ET), 242–61 and Schweitzer, *Reich Gottes*, 36–149.

<sup>7</sup> See Schweitzer, *Quest* (2nd ET), 242. Schweitzer is not as schematic as some have thought, and he is clear, for instance, that the eschatology of the *Psalms of Solomon* is not reflective of the synthesis we find in *4 Ezra* and *2 Baruch*.

<sup>8</sup> "The picture of the future in the preaching of Jesus has the same basic character as that depicted by the authors of the Apocalypses of Ezra and Baruch, and in some way this will have corresponded to the views of the scribes and also of the people" (Schweitzer, *Quest* [2nd ET], 238). It was in part the view that Jesus reflected, as well as interacted creatively with, the Jewish culture of his time that was crucial to the argument of Schweitzer's medical dissertation that Jesus was not, contrary to some views, mad. See Schweitzer, *Psychiatric*.

<sup>9</sup> See Schweitzer, *Quest* (2nd ET), 243–61.

<sup>10</sup> See *ibid.*, 253, where Schweitzer suggests the possibility that the righteous of the last generation will perish in the final tribulation.

<sup>11</sup> See *ibid.*, 249.

a new teaching,<sup>12</sup> solving complex problems that had emerged in the development of Jewish eschatology.<sup>13</sup>

What observations might we make about this reconstruction as it relates to the subject under discussion? First, the issue of Jesus's Jewishness is not as such a subject of concern for Schweitzer, at least not in any explicit way, in spite of the fact that Schweitzer argues that Jesus should be understood exclusively as an individual who thought within categories inherited from his Jewish background. Schweitzer is certainly aware of the extent to which some of his predecessors went to distance Jesus from Judaism.<sup>14</sup> He makes this point, for instance, when discussing the work of Julius Wellhausen on Jesus.<sup>15</sup> And more particularly, he develops this observation in a lengthy treatment of Wilhelm Bousset's work of 1892, entitled *Jesu Predigt in ihrem Gegensatz zum Judentum*.<sup>16</sup> Schweitzer states that the latter's attempts to treat the leading ideas of the preaching of Jesus (which clearly reflect the world that molded his thought) as of secondary importance are wrong. Consistent with this, Schweitzer overtly rejects the approach in studies of Jesus that assumes that his Jewishness, understood as his eschatology, was no more than the superficial husk of a distinctive core that concerned itself with Jesus's apparently universal message.<sup>17</sup>

<sup>12</sup> Schweitzer argues that what Jesus did to previous expectations was to simplify them (ibid., 257). For hyperbolic language about Jesus's achievements in interacting with previous traditions, see ibid., 259.

<sup>13</sup> See especially his comments in ibid., 248–53, where the character of the problems Jesus solved is discussed.

<sup>14</sup> See Heschel, *Abraham Geiger*, 127, where she states that “Schweitzer neglected to note the terrible problem that arose when Christians discussed the religious life of the historical figure of Jesus: he was Jewish.” The point is only half true—Schweitzer is not concerned with this issue per se but because of his own interests with presenting Jesus as an eschatological prophet the matter is discussed intermittently.

<sup>15</sup> See Schweitzer, *Quest* (2nd ET), 211, where he mentions Julius Wellhausen's *Israelitische und jüdische Geschichte* (Berlin: Reimer, 1894), and an extended footnote on 505 (n. 12), where he refers to *Einleitung in die drei ersten Evangelien* (Berlin: Reimer, 1905).

<sup>16</sup> Wilhelm Bousset, *Jesu Predigt in ihrem Gegensatz zum Judentum. Ein religionsgeschichtlicher Vergleich* (Göttingen: Vandenhoeck and Ruprecht, 1892).

<sup>17</sup> “Is it historically permissible to treat the leading ideas of the preaching of Jesus which so clearly bear the marks of the contemporary mould of thought as of secondary importance for the investigation, and so endeavour to trace Jesus' thought from within outwards and not from without inwards?” (Schweitzer, *Quest* [2nd ET], 206). See also ibid., 481 and 483 for further objections to such an approach. Bousset's work, some of whose conclusions were to be revised in his *Die Religion des Judentums im neutestamentlichen Zeitalter* (Berlin: Reuther and Reichard, 1903), to which Schweitzer does not refer, was in part a response to a trend Bousset saw in contemporary theology, exemplified especially in Johannes Weiss's *Die Predigt Jesu vom Reiche Gottes* (Göttingen: Vandenhoeck and Ruprecht, 1892), of drawing too close a comparison between Judaism and Jesus and so losing sight of his uniqueness (on the relationship between Weiss and Bousset, the importance of Weiss's book for Bousset's *Gegensatz*, and their different positions on Judaism, see Gerdmar, *Theological Anti-Semitism*, 146–47). Schweitzer also notes that von Harnack is wrong to proceed in such a way but devotes little space to von Harnack's very popular work, *Das Wesen des Christentums. Sechzehn Vorlesungen vor Studierenden aller Fakultäten im Wintersemester 1899/1900 an der Universität Berlin* (ed. Claus-Dieter Osthöfener; 2nd ed.; Tübingen: Mohr Siebeck, 2007), even though the



But in spite of these comments, the importance of the problem of Judaism for an account of Jesus's life does not constitute a specific concern of Schweitzer: it is only a concern insofar as it touches on the issue of eschatology.<sup>18</sup>

Schweitzer's lack of interest in the question of Jesus's Jewishness is striking because those liberal Protestant theologians who sought to write lives of Jesus and whose work was a central concern of Schweitzer were much taken up with this issue. For if Jesus was to be interpreted nondogmatically and in his historical environment, how, then, was his uniqueness to be understood?<sup>19</sup> Their answer often lay in a polemical interaction with what was known, tendentiously, as "Late Judaism" (*Spätjudentum*), and often these theologians pointed to the particularism and legalism of the Judaism out of which Jesus emerged in their attempt to show how Jesus preached a gospel in opposition to these. This is the central thrust of the work of Bousset, Adolf von Harnack, and even of Schweitzer's teacher, Heinrich Holtzmann, though to differing degrees. Schweitzer is aware of the issue, and, on one occasion in his *Quest*, he notes that it is unsurprising "that it is precisely the representatives of the study of Late Judaism who lift Jesus out of the Late-Jewish world of thought. . . . It is only the expression of the fact that here something new and creative enters into an uncreative age, and of the clear consciousness that this Personality cannot be resolved into a complex of contemporary ideas."<sup>20</sup> While Schweitzer appears in these comments to assent to a liberal view of the uniqueness

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reaction to it was much more significant than the reaction to Bousset's work.

<sup>18</sup> See esp. Schweitzer, *Quest* (2nd ET), 207, where Schweitzer discusses Bousset's view that Jesus opposed eschatology because of its world-denying attitude, and *ibid.*, 206, where he discusses particularism and eschatology.

<sup>19</sup> See Heschel, *Abraham Geiger*, 160–61, and her chapter entitled "Fixing the Theological Gaze: The Reception of Geiger's Work" (*ibid.*, 186–228). Interestingly, she records an exchange between Geiger and Holtzmann, resulting from Holtzmann's response to Geiger's *Das Judentum und seine Geschichte in vierunddreißig Vorlesungen* (Breslau: Jacobsohn, 1910), in which Geiger presents Jesus as a Pharisee (for Holtzmann's response see Heinrich Julius Holtzmann, "Jüdische Apologetik und Polemik," *Protestantische Kirchenzeitung* 10 [1865] 225–37). Responding to Holtzmann, Geiger notes: "You would like to save for Christianity something new, something hardly guessed at before, and you cannot do so in any other way than by again placing Judaism low down, not only in the temporal expression of its appearance but also in its essence and its deepest sentiment" (quoted in Heschel, *Abraham Geiger*, 208). Note also Christian Wiese, *Challenging Colonial Discourse: Jewish Studies and Protestant Theology in Wilhelmine Germany* (trans. Barbara Harshav and Christian Wiese; Studies in European Judaism 10; Leiden: Brill, 2005), esp. 159–216, where he describes the debate that both von Harnack's comments on Judaism in *Das Wesen des Christentums* and Bousset's work devoted to ancient Judaism elicited among members of the *Wissenschaft des Judentums* movement. Note esp. pp. 190–204 for a discussion of typical features of "Late Judaism" (*Spätjudentum*) under the titles, in the original German edition, of "Religion des Partikularismus" and "Gesetzliche Ethik." (For the German edition see Christian Wiese, *Wissenschaft des Judentums und protestantische Theologie im wilhelminischen Deutschland. Ein Schrei ins Leere?* [Tübingen: Mohr Siebeck, 1999].) The desire both of Heschel and of Wiese to expose the relationship between liberal Protestant Christianity and anti-Jewish sentiment was anticipated by George Foot Moore in his "Christian Writers on Judaism," *HTR* 14 (1921) 197–254, esp. 242–43 and 253.

<sup>20</sup> See Schweitzer, *Quest* (2nd ET), 215.

of Jesus in relation to the world into which he entered (on this see below), in the comment that follows, he shows his awareness of the debate that I have just outlined: “But the question cannot be avoided whether the violent separation of Jesus from Late Judaism is a real solution”—and, in a qualified vein, he answers no.<sup>21</sup>

It is perhaps interesting in this context that Schweitzer fails to mention the work of the scholars associated with the *Wissenschaft des Judentums* school, men such as Abraham Geiger, Leo Baeck, Felix Perles, Ismar Elbogen, and others.<sup>22</sup> They often drew attention to the relationship between liberal theology and anti-Judaism and sought to defend Judaism against what they saw as its unfair representation by liberal theologians.<sup>23</sup>

A second point relates to the question of Schweitzer’s own presentation of Judaism at the time of Jesus and to the manner in which he describes Jesus’s interaction with that phenomenon. At one level, it is relatively free from the usual sharply negative comments about “Late Judaism” found among his contemporary liberal theologians and others. Without any reluctance and in an apparently wholehearted, minimally qualified way, Schweitzer describes Jesus’s worldview as Jewish-eschatological.<sup>24</sup> Yet, as will become clear in our discussion of his appraisal of Paul, ancient Judaism interests Schweitzer principally as a tool for understanding Jesus’s ministry, and he understands Judaism almost exclusively in terms of its eschatological character—Judaism is, in some sense, eschatology, and Schweitzer’s knowledge of Judaism beyond the Bible and certain apocryphal and pseudepigraphical works is superficial, even on occasions faulty, not least in his account of the existence of a Jewish-eschatological dogma (or a “Late Jewish” view, as he dubs it) at the time of Jesus.<sup>25</sup>

Schweitzer’s perception of Jesus’s Jewish background is also not immune from certain well-known prejudices. Schweitzer’s assertion, to which reference

<sup>21</sup> Ibid. See also *ibid.*, 277, where Schweitzer gives voice to what might in part at least be deemed the other side of the coin of this issue, namely the desire to turn Jesus into a figure acceptable to German culture. But discussion of this form of modernization, though highly critical, does not engage directly with the problem of the Jewishness of Jesus as a theme of historical Jesus research.

<sup>22</sup> Heschel, *Abraham Geiger*, 3.

<sup>23</sup> See n. 19 above for Geiger’s exchange with Holtzmann on the liberal Protestant portrait of Jesus, as recorded by Heschel.

<sup>24</sup> Interestingly, this sentiment comes out best in the introduction to *Paul and His Interpreters*, written a couple of years before the second edition of *Quest*. There Schweitzer writes: “The teaching of Jesus does not in any of its aspects go outside the Jewish world of thought and project itself into a non-Jewish world, but represents a deeply ethical and perfected version of the contemporary Apocalyptic. Therefore the Gospel is at its starting-point exclusively Jewish-eschatological” (*Paul and His Interpreters*, ix).

<sup>25</sup> This point is made by T. Francis Glasson, “Schweitzer’s Influence—Blessing or Bane?,” *JTS* 28 (1977) 289–302, but had already been made in Schweitzer’s own time by such scholars as R. H. Charles (see *A Critical History of the Doctrine of a Future Life in Israel, in Judaism, and in Christianity; or, Hebrew, Jewish, and Christian Eschatology from Pre-Prophetic Times till the Close of the New Testament Canon* [London: A&C Black, 1913], viii).

has already been made, that Jesus entered an uncreative age,<sup>26</sup> hints at a negative view of “Late Judaism.” So, for instance, in his comments on the Pharisees in his popular *Gespräche über das Neue Testament*, published in a liberal Protestant church newspaper between 1901 and 1904, Schweitzer writes about the so-called “externalization” (Veräusserlichung) of religion apparently manifested in the customs and prescriptions of the Pharisees, and he presents Jesus as an opponent of this. His comments, however, are not uniformly hostile and are, at times, even sympathetic.<sup>27</sup> Nevertheless, Schweitzer is clear that rabbinic Judaism offers little or no insight into Jesus’s ministry, marking, as it does, a decline from the period represented by, for instance, 4 *Ezra*. As he writes in his *Quest*, “Jewish theology completely lost contact with the wider spiritual movements, became rigid and involved itself in unproductive commentary on the Law.”<sup>28</sup> Consistent with this implied critique is Schweitzer’s claim that Jesus’s eschatological position led him not to disobey the Torah but to move beyond it to a more internalized, absolute ethic at the center of which stands the Sermon on the Mount.<sup>29</sup>

<sup>26</sup> See *Quest* (2nd ET), quoted above.

<sup>27</sup> See Albert Schweitzer, *Gespräche über das Neue Testament* (ed. Winfried Döbertin; Munich: Beck, 1994) 72–73, esp. 72, where he describes the piety of the Pharisees in harsh terms, noting that “through this obduracy the Pharisees had wounded Jesus’s heart, and consequently he showed them no leniency. Instead he denounced them, and with them, any form of exaggerated externalization in the religious realm for all time.” (Durch diese Härteigkeit hatten die Pharisäer Jesu Herz verwundet, darum kannte er keine Nachsicht mit ihnen, sondern er hat sie, und damit jede übertriebene Veräusserlichung in der Religion, für alle Zeiten gebrandmarkt.) See also Schweitzer, *Mystery of the Kingdom*, 270: “With all their learning they are blind leaders of the blind, who, instead of making the people receptive for the Kingdom, harden their hearts, and instead of drawing out from the Law the higher morality which renders men meet for the Kingdom, labour against it with their petty outward precepts.” But Schweitzer is not absolute in his condemnation. As he notes in the same section in *Gespräche* from which we have quoted, the form of Pharisaism Paul attacked was a fossilized version of what the movement had been at the beginning of its history, and the Pharisees were, in any case, sincere in their attempts to make the Jews more pious, and that should not be forgotten (see *Gespräche*, 73). Moreover, Schweitzer notes that his readers have no right to judge the Pharisees, leaving that to the great figures of history, for their faults are the readers’ faults, and over and above them (the readers) the Pharisees were sincere and enthusiastic (ibid., 73). See also Schweitzer’s comments in his unfinished essay, “Die Ethik des Judentums,” printed in Albert Schweitzer, *Kultur und Ethik in den Weltreligionen* (ed. Ulrich Körtner and Johann Zürcher; Werke aus dem Nachlass; Munich: Beck, 2001) 311–13, and dated November 1919, where he seems to go to greater lengths to soften the sense of the Pharisees as externalizers of religion, stating: “Even the Pharisees are not the spiritless externalizers of morality, given the devastating claims of Jesus” (Selbst die Pharisäer sind nicht die geistlosen Veräusserlicher der Moral, als welche sie, nach den vernichtenden Aussprüchen Jesu, gelten [311]). He goes on then to explain why, in the face of hellenization, the Pharisees placed so much emphasis on the observance of the law. But that they were more than just “narrow-minded zealots for ceremonial prescriptions” (engherzige Eiferer für zeremonielle Bestimmungen [311]) is clear from the fact that Hillel was one of their number.

<sup>28</sup> Schweitzer, *Quest* (2nd ET), 234. He goes on to argue that rabbinic literature cannot, therefore, shed light on the period of Jesus’s ministry.

<sup>29</sup> See Schweitzer, *Gespräche*, 131; and Schweitzer, *Reich Gottes*, 106–9, for a more detailed engagement with this question.



Also significant are aspects of Schweitzer's portrayal of Jesus. While he depicts Jesus as an individual who reflects the culture out of which he emerged, he also asserts that Jesus interacted with it creatively and in a uniquely sovereign manner. So, in describing Jesus's engagement with Jewish-eschatological thought, and in depicting his own distinctive contribution to it, Schweitzer writes "of the deliberate shaping of a superior and thoughtful spirit,"<sup>30</sup> reflecting the liberal concern to depict Jesus historically but in such a way that his uniqueness is preserved.<sup>31</sup> Schweitzer is not keen, however, to use such assertions of Jesus's uniqueness to escape the specifics of his setting, and this is the case even when he comes to talk about the absoluteness of Jesus's ethical demands—these still emerge out of the eschatological orientation of his thought, and it is consideration of this fact in its fullness, and in a way that eschews forms of spiritualization, or attempts to differentiate between the "nut and husk" of his message, that gives Jesus's thought its greatness.<sup>32</sup> And yet Schweitzer, who is more explicit than any of his contemporaries about the implications of the eschatological specificity of Jesus's message and life—what he terms at one point the "too historical" aspect of his reconstruction<sup>33</sup>—and more agonized in his discussions of its hermeneutical implications,<sup>34</sup> still develops ways of allowing Jesus to transcend that specificity and to become "the one great

<sup>30</sup> Schweitzer, *Quest* (2nd ET), 257. Also see *ibid.*, 347–49.

<sup>31</sup> For Schweitzer, Jesus thought creatively within Jewish categories. See Schweitzer, *Psychiatric*, 60–64.

<sup>32</sup> See Schweitzer, *Quest* (2nd ET), 481 and 485, where he talks about allowing the compelling force of Jesus's personality and his preaching of the kingdom their full expression and so enabling the offensive and alien elements to be recognized calmly. Something of the complex relationship between specificity and universalism is also conveyed in Schweitzer, *Quest* (2nd ET), 212, in a passage we have already quoted where Schweitzer questions the validity of separating Jesus from Judaism, asking instead whether "the very essence of Jesus' creative power *does not* consist in taking out one or other of the parts of the eschatological machinery, but in doing what no one had previously done, namely, in setting the whole machinery in motion by the application of an ethical and religious motive power" [*italics mine*]. On this same complex point, see Schweitzer's essay, written in 1919, entitled "Ethik und Kultur im Denken Jesu," in *Kultur und Ethik in den Weltreligionen* (ed. Ulrich Körtner and Johann Zürcher; Werke aus dem Nachlass; Munich: Beck, 2001) 134–45, at 139: "The timelessness of Jesus's ethics is based on its strange time-bound particularity. Because it reckons with the end of the world and ignores the ongoing questions of the organization of society thrown up by the world of that time, it does not grow obsolete and retains its meaning in every time. No longer predicated on any length of time, it can be applied to any time." (In ihrer einzigartigen zeitgeschichtlichen Bedingtheit ist die Zeitlosigkeit der Ethik Jesu begründet. Weil sie mit dem Weltende rechnet und von allen in der damaligen Welt bestehenden Fragen der Organisation der Gesellschaft absieht, veraltet sie nicht und behält in jeder Epoche ihre Bedeutung. Keine Zeit mehr voraussetzend, läßt sie sich in jede Zeit einsetzen.) Here universalism emerges in a complex way out of particularity. For similar comments see "Albert Schweitzers Selbstdarstellung," in Albert Schweitzer, *Vorträge, Vorlesungen, Aufsätze* (ed. Claus Günzler, Ulrich Luz, and Johannes Zürcher; Munich: Beck, 2003) 360–74, at 369.

<sup>33</sup> See esp. Schweitzer, *Quest* (2nd ET), 405–6, 479.

<sup>34</sup> On this see James Carleton Paget, "Albert Schweitzer's Second Edition of *The Quest of the Historical Jesus*," *BJRL* 88 (2006) 3–39, at 26–37.

man.”<sup>35</sup> Not only has Jesus, according to Schweitzer, by his death and apparent failure, destroyed the old eschatological view and so allowed his followers the right to lay hold of what transcends that setting,<sup>36</sup> but Schweitzer also argues that Jesus’s ethical enthusiasm (understood by Schweitzer in terms of a commitment to the kingdom), which transcends the particularity of his own setting, can still be appropriated by his followers.<sup>37</sup> He can restate such views in ways that make him sound like a typical theological liberal in his commitment to a transcendent ethic with its origins in Jesus:

The mighty thought underlying the Beatitudes of the Sermon on the Mount, that we come to know God and belong to Him through love, Jesus introduces into the late Jewish, Messianic expectation, without being in any way concerned to spiritualize those realistic ideas of the Kingdom of God and of blessedness. But the spirituality which lies in this religion of love must gradually, like a refiner’s fire, seize on all ideas which come into communication with it.<sup>38</sup>

It would be wrong, then, to argue that Schweitzer’s presentation of Jesus as an eschatological enthusiast, enmeshed in his own world, implies that he, Schweitzer, was somehow an enthusiast for the “Late Judaism” from which Jesus emerged. As has already been noted, he sometimes betrays, in muted form, the prejudices against “Late Judaism” that were typical of his age, and one could argue, too, that like most liberal theologians committed to historical study, he can still present a Jesus who breaks out of his own particularity and appears in some sense a unique and transcendent figure.<sup>39</sup> But, importantly, he does this without engaging in extended polemic about the supposed “Late Judaism” of Jesus’s day, which was so much a mark of German theologians of his era. Moreover, he does not make such stereotypical representations of Judaism, insofar as they have any place in his account, a key factor in his explanation of Jesus’s ministry and aims. In part this might be explained by the fact that Schweitzer chooses eschatology as the key to understanding Jesus,<sup>40</sup> or more broadly the Jewish apocalyptic tradition, with the result that his account is less taken up with negative assertions about Judaism—Jesus, after all, is not a religious reformer, but principally a teacher, as he often is

<sup>35</sup> There are many places in Schweitzer’s writings where he uses grandiose language to describe Jesus. See Schweitzer, *Mystery of the Kingdom*, 274–75 and Schweitzer, *Quest* (2nd ET), 479, 487.

<sup>36</sup> Schweitzer, *Mystery of the Kingdom*, 274–75.

<sup>37</sup> See Schweitzer, *Quest* (2nd ET), 481–83 and Carleton Paget, “Second Edition,” 30–34, and relevant secondary literature cited there. See also citations in n. 30 above.

<sup>38</sup> Schweitzer, *Out of My Life*, 54. See also 58, where Schweitzer seeks to endorse the central tenet of liberal Christianity: that the ethical is the essence of religion.

<sup>39</sup> For this point about liberal theological presentations of Jesus, see Heschel, *Abraham Geiger*, 160–61, 226–27, though she does not mention Schweitzer in this context.

<sup>40</sup> Interestingly, Johannes Weiss, who also lays particular emphasis on Jesus’s eschatological message in his *Predigt Jesu* (see n. 17 above), is also strikingly free of anti-Jewish sentiment. See also Gerdmar, *Theological Anti-Semitism*, 171–76.

for other liberal theologians, and so the need for the establishment of difference at an ideological level is not Schweitzer's main concern. Hence, though Schweitzer may have entertained views about Judaism's particularity, as this expressed itself in its apparent legalism, these barely feature as significant elements in his reconstruction of Jesus's ministry.<sup>41</sup> Jesus, for Schweitzer, is not the teacher of universalism amidst a people taken up with nationalistic and legalistic concerns. He is an apocalypticist whose face is set absolutely on the kingdom of God—such a vision is Jewish-eschatological even if it also results in something eternal and binding, which is not Jewish, or rather eschatological, but universal.<sup>42</sup> But such an observation, whatever its merits, should not detract from the fact that Schweitzer's work on Jesus, in its attitude to Judaism, is singular and distinctive; without a sense of embarrassment or difficulty, he identifies the central fact of Jesus's ministry as a specifically Jewish characteristic.

### *Paul*

Schweitzer's work on Paul, consisting of two major publications, is a continuation of his work on Jesus. This is explicitly stated in his preface to *Paul and His Interpreters* of 1911 (ET 1912): "Any one who deals with the teaching and the life and work of Jesus, and offers any kind of new reading of it, ought not to stop there, but must be held under obligation to trace . . . the pathway leading to the history of dogma." Outlining what that might mean he asks: "How could the doctrinal system of Paul arise on the basis of the life and work of Jesus and the beliefs of the primitive community; and how did the early Greek theology arise out of Paulinism?"<sup>43</sup> It is the call for an integrated account of the history of early Christianity that forms the background for Schweitzer's own work—hence the need for a clear account of the motivating forces of Paulinism. Indeed it is exactly the radical character of Schweitzer's own account of Jesus's ministry that makes the need for an account of Paul and of the development of Christianity beyond Paul necessary.

Schweitzer's understanding of Paul's theology, hinted at in *Paul and His Interpreters* and presented more fully in *The Mysticism of Paul the Apostle*, can be briefly summarized. It is Schweitzer's contention that Paul, like Jesus, thinks within Jewish-eschatological categories. The fact of Christ's death and resurrection

<sup>41</sup> "Particularity" (*Bedingtheit*) is a term used by Schweitzer (see n. 32 above) but never in the negative way that it was often used by Protestant New Testament scholars to describe Jewish legalism and nationalism (see the reference to Wiese's discussion of this in n. 19 above). Particularity is something specifically bound up with historical existence and, in his discussion of Jesus, with eschatology.

<sup>42</sup> See n. 34 above. While Schweitzer can describe the historical Jesus as an enigma and a stranger (Schweitzer, *Quest* [2nd ET], 478), this is bound up with Jesus's eschatological view, which seems alien to the modern world, and not with what one might term his Jewishness, understood in some abstract way. As I have stated, Schweitzer is not concerned with Jesus's Jewishness as a problem, either for himself, or, at least in any consistent way, for other German theologians who form a part of his narrative of the quest of the historical Jesus.

<sup>43</sup> Schweitzer, *Paul and His Interpreters*, v.



as the Messiah means that the conditions of redemption have in part begun. Just as in Jewish apocalyptic texts such as *4 Ezra* and *2 Baruch* the Messiah and those whose salvation he effects are identified with each other, so Christians because of Christ's death and resurrection begin proleptically, through the spirit (understood as the spirit of Christ), to experience their own salvation "in Christ." As such they find themselves enabled to act in a manner that allows them to become ethically other than the world, suffused by a sense of love, as captured in Paul's account of love in 1 Cor 13.<sup>44</sup> The fact of the Christians' changed status—that they inhabit a different world, albeit in anticipation of the actual coming of the kingdom, as 1 Corinthians 15 indicates—also has a consequence for their attitude towards the Jewish law. That law is now regarded as no longer having any hold over them, for it comes from the natural world of which the Christians are no longer a part; in fact, the law and eschatology are understood to have always been incompatible "because of the intrinsic impulse of eschatology to an immediate and absolute ethic."<sup>45</sup> But if this is the case, why does Paul appear to support Jews who observe the law? The answer lies in what Schweitzer terms Paul's theory of the status quo ante, which holds that the state in which people are called to be Christian should be the state in which they remain (see 1 Cor 7:2). It is important to note, then, that for Schweitzer Paul's supposed antipathy to the Jewish law only arises out of his own eschatological convictions, and it is only where the issues about Gentile adherence to the law arise, as in Galatia, that Paul feels forced to address the question of the law at all.<sup>46</sup>

Schweitzer, then, claims that a correct understanding of Paul construes him as thinking from within Judaism. "Paul," he writes, "belongs to Late Judaism."<sup>47</sup> And he continues:

To apply the comparative method to Paul would, therefore, generally speaking, mean nothing more or less than to explain him on the basis of Late Judaism. Those who give due weight to the eschatological character of his doctrine and to the problems and ideas which connect it with works like the Apocalypse of Ezra are the true exponents of 'Comparative Religion.'<sup>48</sup>

"Late Judaism" is again understood, as in the case of Jesus, as the Judaism of those Jewish writers taken up with questions of eschatology (Schweitzer, in *Paul and His Interpreters*, excludes any consideration of rabbinic material from an assessment of Paul, passing over it with a few negative comments as with his work on Jesus<sup>49</sup>). And

<sup>44</sup> It is precisely Paul's achievement that he has ethicized the concept of living proleptically in Christ.

<sup>45</sup> Schweitzer, *Mysticism*, 189.

<sup>46</sup> For a helpful discussion of these factors in Schweitzer's thought, see E. P. Sanders, *Paul and Palestinian Judaism: A Comparison of Patterns of Religion* (London: SCM, 1977) 476–81.

<sup>47</sup> Schweitzer, *Paul and His Interpreters*, 176.

<sup>48</sup> *Ibid.*, 177.

<sup>49</sup> *Ibid.*, 49 and 51. Roland Deines states that Schweitzer fails in *Paul and His Interpreters* to deal with the question of Paul and Pharisaism as a theme in Pauline research (*Die Pharisäer*.

Paul, like Jesus, adapted such thoughts in the light of changing circumstances—that is, according to Schweitzer, he adapted them thoughtfully. But such adaptation is not the equivalent of the formation of a new religion. As Schweitzer writes, refuting the idea prevalent among some scholars that Paul founded a new religion:

For him [Paul] there was only one religion: that of Judaism. It was concerned with God, faith, promise, hope and law. In consequence of the coming, the death, and the resurrection of Jesus Christ, it became its duty to adjust its teachings and demands to the new era thus introduced, and in the process many things were moved from the shadow into the light and others from the light into the shadow. “Christianity” is for Paul no new religion, but simply Judaism with the centre of gravity shifted in consequence of the new era. His own system of thought is certainly for him no new religion.<sup>50</sup>

In asserting the Jewish identity of Paul so strongly Schweitzer was flying in the face of a number of tendencies within the scholarship of his own time. Amidst a growing enthusiasm for the study of the “Orient” and its religions, a number of Christian scholars had sought to argue that Paul’s thought was best understood against the background of the world of Hellenistic religion, not least that of the so-

*Ihr Verständnis im Spiegel der christlichen und jüdischen Forschung seit Wellhausen und Graetz* [Tübingen: Mohr Siebeck, 1997] 16 n. 40). We should, however, note that in the preface to *Mysticism* Schweitzer draws attention to the fact that he has attempted to deepen his knowledge of “Late Judaism” through consultation with Gerhard Kittel, an acknowledged expert on ancient Judaism and rabbinics (at this point in Kittel’s life he had not shown himself publicly to be an anti-Semite—this was to manifest itself in 1933 with his infamous lecture “Die Judenfrage,” on which see William Horbury, *Herodian Judaism and New Testament Study* [WUNT 193; Tübingen: Mohr Siebeck, 2006] 178–79). Deines states that Kittel criticized Schweitzer in his review of Paul Fiebig’s *Altjüdische Gleichnisse und die Gleichnisse Jesu* (Tübingen: Mohr Siebeck, 1904) for claiming that Fiebig’s work had brought the study of the New Testament and rabbinics to an end, when in fact neither Fiebig nor indeed Kittel believed that to be the case (*Pharisäer*, 429). Perhaps Schweitzer read this passage in Kittel and sought his advice, though Kittel’s expertise on Judaism was well known at the time and so consultation with him on this matter would have seemed natural. In a positive review of *Mysticism* the Jewish scholar Ernst Jacob, while castigating Schweitzer for his continued adoption of what he terms Kittel’s word, “Late Judaism” (*Spätjudentum*), preferring “Early Judaism” (*Frühjudentum*) himself, is clear that in this work Schweitzer takes more account of rabbinic material than he does in *Paul and His Interpreters*, though such material plays very little role (“Neue Literatur über Paulus und das Urchristentum,” *MGWJ* 75 [1931] 328–35, at 329–33). W. D. Davies, while generally very positive about Schweitzer’s work on Paul, criticizes him for his attitude to rabbinic Judaism, specifically for his stark distinction between it and apocalyptic (“Paul and Judaism,” in *The Bible and Modern Scholarship: Papers Read at the 100th Meeting of the Society of Biblical Literature, December 28–30, 1964* [ed. J. Philip Hyatt; Nashville: Abingdon, 1965] 178–86, esp. 184–86; repr. in W. D. Davies, *Paul and Rabbinic Judaism: Some Rabbinic Elements in Pauline Theology* [4th ed.; Philadelphia: Fortress, 1980] vii–xvi). Sanders is clear that Schweitzer had little knowledge of rabbinic literature and was largely dependent for his account on Ferdinand Weber, *Jüdische Theologie auf Grund des Talmuds und verwandter Schriften* (ed. Franz Delitzsch and Georg Schnedermann; Leipzig: Dörffling and Franke, 1897), mentioned, somewhat negatively, by Schweitzer at Schweitzer, *Paul and His Interpreters*, 48 (for Sanders’s comments see *Paul*, 39 n. 22).

<sup>50</sup> Schweitzer, *Paul and His Interpreters*, 227. For further bold assertions of the same see Schweitzer, “Selbstdarstellung,” 373–74.

called mystery religions. Scholars such as Richard Reitzenstein, Adolph Deissmann, and Wilhelm Bousset had argued this case with vigor,<sup>51</sup> and their conclusions were one of the chief targets of Schweitzer's work on Paul. Among other things, such exponents of the so-called "history of religions" (*Religionsgeschichte*) approach had, in Schweitzer's opinion, created a huge gap between Jesus and Paul, believing the latter to be the second founder of Christianity. Schweitzer, by asserting Paul's background in Jewish-eschatological thinking and so his identity as a Jew, was directly refuting this assertion.<sup>52</sup> But in arguing such a case Schweitzer went against a more ingrained tendency in German theological scholarship, in part linked to what has been described above. Building on the Lutheran assertion that the center of Paul's gospel lies in his doctrine of justification by faith, this tendency asserted that Paul was the advocate of a religion of moral universalism over against Jewish particularism with its emphasis on nationality and law. This view, advocated with great clarity by F. C. Baur, was one from which much German scholarship failed to emancipate itself.<sup>53</sup> By arguing for the primacy of the idea of eschatological mysticism in Paul's theology, and in partial extension of this view, for the subsidiary role of justification within that system,<sup>54</sup> Schweitzer, a Lutheran minister, and the son, nephew, and grandson of the same, removed a central pillar in the universalist reconstruction of Paul. Paul, on Schweitzer's account, is not primarily a critic of prevailing forms of Jewish religiosity, nor a critic in any essentialist or qualitative way of the Jewish Torah nor by extension Jewish particularism, but an exponent of what it means to be the follower of the dead and now raised Messiah, Jesus, in a new eschatological age.<sup>55</sup> W. D. Davies notes this point, claiming that Schweitzer's description of justification as a subsidiary crater in Paul's thought means that the

<sup>51</sup> For a discussion of this work and its origins see Suzanne L. Marchand, *German Orientalism in the Age of Empire: Religion, Race, and Scholarship* (Publications of the German Historical Institute; Cambridge, U.K.: Cambridge University Press, 2009) 284–91.

<sup>52</sup> Broadly speaking it would be right to argue that Schweitzer's own approach to Paul is a "history of religions" approach, as he himself admits. It is simply that the religion with which he seeks to compare Paul's thought is Judaism. When he writes in the passage quoted above on p. 374 about "true exponents of 'Comparative Religion'" (see Schweitzer, *Paul and His Interpreters*, 177), the word translated as "comparative religion" is *Religionsgeschichte*.

<sup>53</sup> See Ekkehard Stegemann, "Der Jude Paulus und seine antijüdische Auslegung," in *Auschwitz—Krise der christlichen Theologie. Eine Vortragsreihe* (ed. Rolf Rendtorff and Ekkehard Stegemann; Abhandlung zum christlich-jüdischen Dialog 10; Munich: Kaiser, 1980) 117–39, at 123–25. Further discussion of this and related points is found in Gerdmar, *Theological Anti-Semitism*, 98–120, esp. 103–9. For a discussion of the persistence of anti-Jewish interpretations of Paul, see Sanders, *Paul*, 2–12, 33–69.

<sup>54</sup> Schweitzer was not the first to question the centrality of justification for Paul. William Wrede had already done the same, but Wrede had not done this as part of a more Jewish portrayal of Paul. In fact Wrede is clear about Paul's opposition to Judaism and sees the doctrine of justification as bound up with that concern rather than with a theory of redemption. See William Wrede, *Paulus* (2nd ed.; Tübingen: Mohr Siebeck, 1907) 72–79. For Schweitzer's comments on Wrede, see *Paul and His Interpreters*, 166–70.

<sup>55</sup> For Schweitzer's thoughts on justification see Schweitzer, *Mysticism*, 205–26.



way was opened to considering Paul as fulfilling, rather than opposing, Judaism.<sup>56</sup> As Schweitzer was to claim, for Paul Christianity is the true Jewish religion.<sup>57</sup>

But Schweitzer was not interested in pursuing this apparent implication of his work. As E. P. Sanders has pointed out, Jewish apocalypticism serves simply as the point of departure for his description of Paul's thought,<sup>58</sup> and Schweitzer's conclusions do not lead to detailed reflection on the nature of the relationship of Pauline Christianity to Judaism, nor indeed to considerations, at least explicitly, of why it is that a movement that began within Judaism became Christianity.<sup>59</sup> But, while neglecting any explicit engagement with these matters, Schweitzer, as with his work on Jesus, is wise to the fact that the Jewishness of Paul is an ongoing concern of commentators. So in seeking to explain why it is, in his opinion, that scholars generally prefer to argue that Paul is the beginning point of the so-called hellenizing process of Christianity, he suggests that this is "because he [Paul] detached Christianity from Judaism, and because otherwise his thoughts do not seem to be easily explicable."<sup>60</sup> After all, if Paul's views are assumed to be purely Jewish-eschatological, the problem of how the gospel became hellenized becomes more acute (precisely these points had been made to explain why scholars had sought to avoid eschatological interpretations of Jesus's ministry). Schweitzer, then, goes on to explain further why scholars have generally moved away from a view of Paul as what he terms a Jewish-eschatological thinker:

Moreover, the theological study of history is apt, even though unconsciously, to give ear to practical considerations. At bottom, it is guided by the instinct that whatever in the primitive Gospel is capable of being Hellenised may also be considered capable of being modernised. It therefore seeks to discern in Paul's teaching—as also in that of Jesus—as much as possible that "transcends Judaism," that has the character of "universal religion" and "essential Christianity." It is haunted by the apprehension that the significance of Christianity, and its adaptation to our times, is dependent on justifying the modernisation of it on the lines hitherto followed and in accordance with the historical views hitherto current.<sup>61</sup>

For Schweitzer, as in his studies of Jesus, it is a Christian desire to modernize Paul, to make him a man amenable and relevant to the present age, which makes a view of him as a Jewish-eschatological thinker uncongenial. In these short and

<sup>56</sup> See Davies, "Paul and Judaism," esp. 184–86.

<sup>57</sup> Schweitzer, *Paul and His Interpreters*, 227.

<sup>58</sup> "Schweitzer . . . had not sought to deal thoroughly with the question of the *relation* of Pauline theology to that of Judaism. Jewish apocalypticism serves, rather, as the point of departure for his description of Paul's thought" (Sanders, *Paul*, 8) [italics in original].

<sup>59</sup> I say "explicitly" because Schweitzer does go on to show how it was that Paul's Jewish-eschatological message came to be hellenized, but this account of the hellenization of Christianity does not lead to any reflections on the so-called "parting of the ways."

<sup>60</sup> Schweitzer, *Paul and His Interpreters*, x.

<sup>61</sup> Ibid.

undeveloped comments as to motive, which are more prominent in Schweitzer's earlier work on Paul, *Paul and His Interpreters*, than in his later work, *Mysticism*,<sup>62</sup> nowhere does he mention the role of anti-Jewish prejudice, no doubt because he saw the fault of interpreters as emerging from their essentially intellectual and hermeneutical concerns. Furthermore, Schweitzer is uninterested in pursuing the wider theological consequences of his "Jewish" view of Paul. In fact it is unclear that Schweitzer really has a strongly developed sense of the Jewishness of Paul, in spite of his apparently unambiguous comments on this matter. In his reflections at the end of *Mysticism*, for instance, he engages with the question of the ongoing relevance of Paul. For Schweitzer the apostle becomes the beginning point of what one might term the demythologization of eschatology, and by extension, the Jewish-eschatological view, precisely because his Paul begins to see the future promise of eschatology invading the present.<sup>63</sup> And in such a conclusion, Paul, rather than being a Jew, becomes the patron saint of Christian thinkers.<sup>64</sup> Reading this conclusion, one can see why Schweitzer could at one point claim that Paul "detached Christianity from Judaism."<sup>65</sup> But in this concluding chapter Schweitzer is wrestling with hermeneutical issues that his own work so acutely raises. It still remains the case that the historical Paul is a Jew thinking Jewishly and with no intention of founding a new religion, wherever his thoughts may have led. In making such an assertion and doing so in books almost entirely free of anti-Jewish censure, Schweitzer was, among his contemporaries, strikingly distinctive.<sup>66</sup>

<sup>62</sup> It would be wrong, however, to think that *Mysticism* is less taken up with exploring the Jewish background of Paul than *Paul and His Interpreters*.

<sup>63</sup> "A faith of the present arises within the faith of the future. Paul connects the expectation of the Kingdom and of the redemption to be realised in it with the coming and the death of Jesus, in such a way that belief in the redemption and in the Coming of the Kingdom becomes independent of whether the Kingdom comes quickly or is delayed. Without giving up eschatology, he already stands above it" (Schweitzer, *Mysticism*, 380). Schweitzer goes on to assert that Paul thinks out so thoroughly belief in Jesus as the coming Messiah that it becomes freed from its temporal limitations and valid for all time.

<sup>64</sup> *Ibid.*, 376.

<sup>65</sup> See Schweitzer, *Paul and His Interpreters*, x, quoted above.

<sup>66</sup> Stegemann holds Schweitzer's avoidance of an anti-Jewish interpretation of Paul to be singular ("Paulus," 130), though he does not discuss why Schweitzer may have come to the apparently exceptional views he did. See also Erich Gräßer's assertion: "*Today* one writes such sentences lightly. At that time they were audacious sentences and they stood in sharp contrast to prevailing opinions about Paulinism among liberals, who had pushed what was Jewish as far into the distance as possible and had placed at the forefront of Pauline theology the moral, purely spiritual, personal conception of religion." (Solche Sätze schreibt man *heute* leicht. Damals waren sie kühne Sätze. Sie waren der liberalen Vorstellung vom Paulinismus stracks zuwider. Denn diese hatte das Jüdische möglichst zurückgeschoben und in den Vordergrund der paulinischen Theologie die sittliche, rein geistige, persönliche Auffassung des religiösen Verhältnisses gestellt [*Albert Schweitzer als Theologe* [Tübingen: Mohr Siebeck, 1979] 171–72]) [*italics in original*].

*Judaism as a Religion in Schweitzer's Non-New Testament Work*

Albert Schweitzer was very interested in what one might now term “comparative religion.” He wrote one general book on the subject<sup>67</sup> and a book devoted to Hinduism and Buddhism.<sup>68</sup> He took an interest in Zoroastrianism and wrote extensively on Chinese religious thinkers,<sup>69</sup> though much of this work was published posthumously.<sup>70</sup> And yet, beyond his comments on Judaism in his books on New Testament subjects, Schweitzer remained uninterested in the history of Jewish thought and religiosity. So, in his extant works, Judaism is only ever discussed as a prelude to the discussion of Christianity, and normally then in relation to the evolution of the idea of the kingdom of God, or the development of what Schweitzer refers to as the Jewish-eschatological view. For Schweitzer, “Amos and Isaiah have created the conception of the Kingdom of God. Late Judaism developed it in fantastic ways, no doubt partly under the influence of ideas from Zarathustra’s religion, with which exile made the Jews acquainted. Jesus brings the Kingdom idea to its ethical perfection, without inveighing against its late-Jewish form.”<sup>71</sup> In the same book and elsewhere he argues that it was precisely Christianity’s movement away from this Jewish-eschatological heritage, and its adoption of a more individualized theology of redemption, based on the sacraments, which led to a diminishment of Christian theology. As he writes: “This much, however, is certain: as the Jewish outlook is abandoned, the ideas which constitute the uniqueness and greatness of the teaching of Jesus—the ideas of the Kingdom of God and of an ethic directed toward the Kingdom—lose their vitality in the Christian religion.”<sup>72</sup>

Given these comments, some might think it striking that the book *Religions of the World* contains no further discussion of Judaism. In what is essentially a qualitative comparison between religions, which Schweitzer typologizes in terms of the extent to which they are optimistic or pessimistic, monistic or dualistic, and influenced by ethical motives,<sup>73</sup> Schweitzer chooses to discuss chiefly Christianity and the

<sup>67</sup> See Albert Schweitzer, *Das Christentum und die Weltreligionen* (Munich: Beck, n.d.; ET *Christianity and the Religions of the World* [trans. Johanna Powers; London: Allen and Unwin, 1923]).

<sup>68</sup> See Albert Schweitzer, *Die Weltanschauung der indischen Denker. Mystik und Ethik* (Munich: Beck, 1935; ET *Indian Thought and Its Development* [trans. Lilian M. Rigby Russell; New York: Holt, 1936]), and, for further discussion of the same, see the series of chapters in Albert Schweitzer’s *Kultur und Ethik in den Weltreligionen* designated “Kultur und Ethik in den Weltreligionen” (ed. Ulrich Körtner and Johann Zürcher; Werke aus dem Nachlass; Munich: Beck, 2001) 13–175.

<sup>69</sup> See Albert Schweitzer, *Geschichte des chinesischen Denkens* (ed. Bernard Kaempf and Johann Zürcher; Werke aus dem Nachlass; Munich: Beck, 2002).

<sup>70</sup> He did not take a developed interest in Islam, though he was fearful of its advance through Africa, commenting at some length as to why it might be appealing to some Africans and why he found the prospect of such an advance uncongenial. See his “Von der Mission. Gedanken und Erfahrungen,” in Albert Schweitzer, *Vorträge, Vorlesungen, Aufsätze* (ed. Claus Günzler, Ulrich Luz, and Johann Zürcher; Werke aus dem Nachlass; Munich: Beck, 2003) 316–59, at 333–34.

<sup>71</sup> Schweitzer, *Religions of the World*, 24–25.

<sup>72</sup> *Ibid.*, 25.

<sup>73</sup> *Ibid.*, 36–37.



Indian and Chinese religions. And further failure to engage with Judaism beyond the so-called “Late Jewish” period, roughly the middle of the second century, can be seen elsewhere in his own works on the New Testament, as discussed above, and in other religio-philosophical works.<sup>74</sup> Because of this apparent lack of interest in post-New Testament Judaism—coupled with the sense that Schweitzer finds post-New Testament Judaism problematic<sup>75</sup>—some might argue that Schweitzer reflects Christian forms of supersessionism. While it is true that there are moments when Schweitzer can sound a supersessionist-like note,<sup>76</sup> these are rare, even in

<sup>74</sup> See Schweitzer, *Reich Gottes*, 36–150, as well as Albert Schweitzer, *Wir Epigonen. Kultur und Kulturstaat* (ed. Ulrich Körtner and Johann Zürcher; Werke aus dem Nachlass; Munich: Beck, 2005) 376–78. In the latter passage Schweitzer engages in a detailed discussion of the qualities required of a *Kulturstaat*. He notes that there are some such states in the history of the world whose real achievement has never been properly appreciated because that achievement, moral in its content, came with little outward success as measured, for instance, in military victories or the attainment of empires. Schweitzer contends that one of the best examples of such a *Kulturstaat* is that of the Jews. He then delineates how the prophetic, ethical vision exemplified in Amos, Hosea, and Isaiah began to influence the Jewish hierarchy and how the small and insignificant nation of Judea became a proper *Kulturstaat*. He states that it did not lose its character as such after the Jewish nation ceased to be a state in territorial and political terms. He then concludes: “Through Christianity, which emerged from it, it [Judaism]—in combination with Greco-Roman thought—laid the foundation for our culture and our ‘culture-states’” (Durch das aus ihm hervorgegangene Christentum hat er [der jüdische Staat] mit dem griechisch-römischen Denken den Grund zu unserer Kultur und unseren Kulturstaaten gelegt [ibid., 377]); and he attributes indirectly to Judaism the idea that all cultures are spiritually members of the one culture of humanity. Such a view is easy to arrive at when one recalls that the idea of the kingdom of God, first articulated among Jews, is precisely the foundation of all *Kulturstaaten*. He continues more forcefully: “In this way the ‘culture-people’ that became such through the simplest of processes is at the same time the one that has produced the greatest stimuli and the only one that has not declined. This is explained by the fact that its ascent was an inward one and was accompanied by no other external circumstances. . . . Judaism survived because it was only a ‘culture-people’ spiritually and therefore could adapt to all conditions of life.” (So ist das in dem einfachsten Prozeß gewordene Kulturvolk zugleich dasjenige, das die größten Anregungen gegeben hat, und das einzige, das nicht unterging. Das liegt daran, daß sein Aufstieg ein innerlicher und von keinen äußeren Umständen begleitet[er war]. . . . Es [das Kulturvolk] blieb erhalten, weil es nur geistig Kulturvolk war und sich daher allen Lebensbeding[ungen] anpassen konnte [ibid., 377]). But again little real interest is shown in Judaism (he goes on to make some comments about the way in which Jewish concentration on morality has meant that the aesthetic dimension of life has been forgotten, and that this constitutes the major difference between Jewish and non-Jewish culture), even though Schweitzer vows to take his discussion further.

<sup>75</sup> See the following comment from Schweitzer, *Paul and His Interpreters*: “The picture [of Judaism in an earlier period] which they [rabbinic scholars] draw for us shows only a sun-scorched plain, but this yellow, wilted grass was green and fresh once” (49); see also n. 49 above.

<sup>76</sup> Something close to a supersessionist position might be found in *Gespräche*, 59: “Everything had to turn out as it in fact did in order that this people [the Jews] could bequeath to the world that for which we must be grateful to it: *Christianity*. It is with these thoughts in mind that one must examine the picture of Israel’s history in the time before the birth of Jesus and during his youth, if one wants to understand its higher sense.” (Alles mußte kommen, wie es kam, damit dieses Volk [die Juden] der Welt das schenken konnte, was wir ihm verdanken: *das Christentum*. Mit diesen Gedanken muß man das Bild der Geschichte Israels in der Zeit vor Jesu Geburt und während seiner Jugend aufrollen, wenn man ihren höheren Sinn verstehen will [*italics in original*].) But this sentiment, found in a set of popular addresses on Jesus and the New Testament, is expressed

sermons, where one might expect it,<sup>77</sup> and they never approach a clear statement that the Christian church replaces Israel; Schweitzer is not sufficiently interested in ecclesiology for this to be a concern of his and nowhere in his writings do we see a clear and unadulterated expression of this idea.<sup>78</sup> Perhaps “absorption” might be a better word than “supersession,” capturing the sense that Christianity takes up aspects of Judaism in a different form, what Schweitzer means when he says that Christianity is for Paul “no new religion, but simply Judaism with the centre of gravity shifted in consequence of the new era.”<sup>79</sup>

Notable also is the fact that even when Schweitzer had the opportunity to engage in what, for want of a better term, one might describe as Jewish-Christian dialogue, he did not appear to take it up, at least in explicit form. This is illustrated eloquently in his correspondence with Martin Buber, which took place over an extended period from 1928, when Buber wrote to Schweitzer asking him to participate in a conference in Karlsruhe,<sup>80</sup> to 1965, the year in which both men died. The correspondence<sup>81</sup> gives evidence of a strong mutual respect. Both men sent each other copies of some of their books, and Buber in particular shows signs, not so much in his correspondence with Schweitzer, but rather in his own works,<sup>82</sup> of a detailed engagement with some of Schweitzer’s work, especially on Jesus and Paul. So Buber, who could on one occasion refer to Schweitzer’s “distinctive proximity to Israel” (*eigentümliche Israelsnähe*),<sup>83</sup> was in strong agreement with Schweitzer that the key to understanding Jesus’s ministry lies in his preaching

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benignly, however one might understand its implications. It may, however, hint at why Schweitzer ceased to take much of an interest in Judaism beyond the New Testament. In many ways for him Christianity embodied Judaism’s greatest thoughts.

<sup>77</sup> See, for instance, his sermon dated January 10, 1904 (Albert Schweitzer, *Predigten, 1898–1948* [ed. Richard Brüllmann and Erich Gräßer; Werke aus dem Nachlass; Munich: Beck, 2001] 512–15), where, in asking why it was that the Jews rejected Christ, he avoids a vituperative answer, asserting that the Jews, though immensely pious and honest, were “sated” (*satt*) and so not aware that there were other dishes to taste. He likens this state to a condition found among many contemporaries. The answer might not be found acceptable now, but it avoids the usual Christian polemic that might have been elicited by such a question.

<sup>78</sup> For classic expressions of supersessionism among German Protestant scholars see Franz Delitzsch as discussed in Gerdmar, *Theological Anti-Semitism*, 228–30.

<sup>79</sup> Schweitzer, *Paul and His Interpreters*, 227.

<sup>80</sup> The conference was connected with the journal *Kreatur*, which promoted dialogue between Jews, Catholics, and Protestants. Its theme was to be “reality and responsibility” (*Wirklichkeit und Verantwortung*). Schweitzer was unable to attend. The men first met in 1929 in Frankfurt at a conference at which both gave papers.

<sup>81</sup> See Pamela Vermes, “The Buber-Schweitzer Correspondence,” *JJS* 37 (1986) 228–45 and Albert Schweitzer, *Theologischer und philosophischer Briefwechsel, 1900–1965* (ed. Werner Zager in collaboration with Erich Gräßer, with the assistance of Markus Aellig et al.; Werke aus dem Nachlass; Munich: Beck, 2006) 133–49. See also Lothar Stiehm, “Martin Buber und Albert Schweitzer. Geben, Nehmen, Miteinander 1901–1965,” in *Den Menschen zugewandt leben. Festschrift für Werner Licharz* (ed. Ulrich Lilienthal and Lothar Stiehm; Osnabrück: Secolo, 1999) 97–116.

<sup>82</sup> Buber’s engagement with Schweitzer’s oeuvre goes back to 1902, when he read *Abendmahl*.

<sup>83</sup> Martin Buber, *Zwei Glaubensweisen* (2nd ed.; Gerlingen: Lambert Schneider, 1994) 17.

on the kingdom of God and in an appreciation of his ethical achievement. While broadly enthusiastic for Schweitzer's work on Paul,<sup>84</sup> he disagreed with Schweitzer's assessment of Paul as a Jewish thinker rather than one influenced by the Greek world. So in his well-known work of 1950, *Zwei Glaubensweisen*,<sup>85</sup> in which he sought to explore the differences between Christianity and Judaism in reference to their different understandings of faith or belief (*Glaube*), he states, here commenting on Schweitzer's *Mysticism*: "I, however, can connect the Pauline doctrine of faith . . . only with a peripheral Judaism, which was actually Hellenistic."<sup>86</sup> With Schweitzer's other work, Buber appears less well acquainted.<sup>87</sup>

Schweitzer clearly read Buber (he possessed fourteen of his books, some of which are heavily marked), and in his correspondence he mentions, with some warmth, his experience of reading the latter's translation of the Old Testament into German, and his *Zwiesprache*.<sup>88</sup> Also mentioned are *Das verborgene Licht*,<sup>89</sup> *Die Frage an den Einzelnen*,<sup>90</sup> and, at greater length, *Zwei Glaubensweisen*.<sup>91</sup> But Schweitzer did not take an interest in Buber's more obviously Jewish work, such as that on Hasidism or Moses, or with the Jewish dimension of the work he has read, though at one point he does note how much life there is in rabbinic Judaism.<sup>92</sup> Consistent with this is the fact that discussion of Buber's work in the correspondence barely picks up on the implications of the latter's thought for Jewish-Christian dialogue. So in Schweitzer's listing of questions and observations relating to *Zwei Glaubensweisen*, in a letter dated April 4, 1951, he does not allude to Buber's disagreement with his own Jewish portrait of Paul (a disagreement already referred to above<sup>93</sup>), and

<sup>84</sup> For expressions of enthusiasm for and strong interest in Schweitzer's work on Paul see the letter dated December 5, 1932. Here Buber notes that the effect of Schweitzer's book on Paul has increased since he last wrote to him and that he wants to discuss the matter with Schweitzer further.

<sup>85</sup> See n. 83 above for full bibliographic reference.

<sup>86</sup> Buber, *Zwei Glaubensweisen*, 17: "Ich kann jedoch die paulinische Lehre vom Glauben, die ich hier behandle, nur mit einem randhaften Judentum in Verbindung sehen, das eben ein 'hellenistisches' war."

<sup>87</sup> On this see Vermes, "Correspondence," 229–30.

<sup>88</sup> Martin Buber, *Zwiesprache* (Berlin: Schocken, 1932). The letter where both these works are mentioned is dated December 3, 1932.

<sup>89</sup> Martin Buber, *Das verborgene Licht* (Frankfurt-am-Main: Rütten and Loening, 1924).

<sup>90</sup> Martin Buber, *Die Frage an den Einzelnen* (Berlin: Schocken, 1936).

<sup>91</sup> Letter dated April 4, 1951.

<sup>92</sup> Letter dated December 3, 1932. See Vermes's comment: "Schweitzer for his part did not extend his zone of concern with the Bible so that it entered the preserves of the Judaism, let alone the Hasidism, of Buber the 'arch-Jew'" ("Correspondence," 229). If Schweitzer had read this material, and we have no evidence that he did, he would probably have had little sympathy for Buber's attempt to appreciate the magical, mystical, and ecstatic side of Hasidic culture, or his attempts to use elements of that tradition to revivify Judaism. Such emphases would probably have offended Schweitzer's liberal sensitivities, though whether, as has been suggested to me by Prof. Ruth Harris of New College, Oxford, he would have found aspects of Buber's Hasidism resonant with aspects of African culture that his mission was seeking to disenchant is not clear.

<sup>93</sup> In the copy of *Die Mystik des Apostels Paulus* (*Mysticism*) that Schweitzer gave Buber, there was an inscription in which Schweitzer notes the fact of his Jewish portrait of Paul. It is more



he never discusses the book's central thesis about the different approaches of the two religions to the idea of faith/belief, construed in Judaism as trust and in Christianity as belief in a set of principles. In some ways one might say that insofar as Schweitzer interacted with Buber, he interacted with him as a thinker and even an exegete, but not obviously as a Jew and the creator of a Jewish perspective with which he wished to wrestle. That is not to say that Schweitzer was unaware of the Jewish dimensions of Buber's thought, but that was not something he was interested in highlighting, at least in the extant correspondence. In one sense this is unsurprising: Schweitzer's own Christian faith was unconventional insofar as it was ethical rather than traditionally Christological. For this reason he may in fact have seen less difference between himself and Buber, who, like him, was often regarded with suspicion by his co-religionists.

## ■ Contemporary Jews and Judaism in Schweitzer's Life

### *Albert Schweitzer's Alsatian Context*

The extent of Albert Schweitzer's contact with Jews and his awareness of issues relating to them during his own lifetime merits some discussion. He was born into a part of the world, Alsace, that boasted a reasonably large Jewish population,<sup>94</sup> and one that had been the victim of bouts of anti-Semitism for centuries, not least because Jews were often involved in the business of money-lending in a mainly agricultural economy, which lacked adequate credit institutions until later in the nineteenth century.<sup>95</sup> The French Revolution, which led to the extension to the Jews of citizenship rights, had brought about, if at an uneven pace and in spite of anti-Semitic conflict, increasing assimilation, especially among urban Jewish populations. Reaction to Prussia's annexation of Alsace-Lorraine following the Franco-Prussian war of 1870 was especially negative among members of the Jewish cultural elite, who feared that rights gained in the French Revolution might be removed by the less liberal Prussian state.<sup>96</sup> As a result of this quite a number "opted" to move to France (the so-called *optants*).<sup>97</sup> Many also, though perhaps for different reasons, emigrated to the New World, and between 1875 and 1900, the population of Jews in Alsace decreased from 2.7% of the total to 1.9%.<sup>98</sup>

surprising, then, especially given Buber's disagreement with this thesis, that he does not discuss the matter at greater length. However, this could have happened in conversations the two had in their rare meetings.

<sup>94</sup> Before the annexation of Alsace-Lorraine by the Prussian state in 1870, Jews from that area accounted for 57% of French Jewry (see Vicki Caron, *Between France and Germany: The Jews of Alsace-Lorraine, 1871–1918* [Stanford, Calif.: Stanford University Press, 1988] 12).

<sup>95</sup> See Caron, *Jews*, 119. Also see Freddy Raphaël, *Le judaïsme alsacien. Histoire, patrimoine, traditions* (Strasbourg: La Nuée Bleue, 1999) and Ruth Harris, *The Man on Devil's Island: Alfred Dreyfus and the Affair that Divided France* (London: Penguin Allen Lane, 2010) 43–45.

<sup>96</sup> See Caron, *Jews*, 27–30.

<sup>97</sup> The majority of Jewish *optants* were from the wealthier classes.

<sup>98</sup> See Caron, *Jews*, 92.

Immigration into the area by German Jews, who became an increasingly important part of the annexed territory, compensated somewhat for this loss,<sup>99</sup> but also caused tensions with indigenous Alsatian Jews and served to deepen a feeling among the latter of strong allegiance to France.<sup>100</sup> However, attitudes began to change among Alsatian Jews toward the end of the century, partly as a result of the Dreyfus affair, which broke out in 1894. Dreyfus himself was an Alsatian Jew<sup>101</sup> and anti-republican forces in France, who tended to oppose Dreyfus's release from prison on a charge of treason, engaged both in anti-Alsatian and anti-Semitic rhetoric. Alsatian Jews, faced with this kind of prejudiced language, became more willing to accommodate themselves to Prussian rule,<sup>102</sup> especially as the new regime sought, in various ways, to take a firm stand against anti-Semitism.<sup>103</sup> A sign of the more liberal position being adopted toward Jews was seen not only in the elevation of certain Jews to positions of importance in society, but also in the University of Strassburg, which was re-founded after the annexation as the Kaiser-Wilhelm-Universität,<sup>104</sup> and which Schweitzer was himself to attend. Both in terms of the number of distinguished Jews on its staff<sup>105</sup> and the number of Jewish students,<sup>106</sup> it proved itself more liberal than universities in Prussia itself (though not devoid of anti-Semitic tendencies).<sup>107</sup>

In his short autobiographical work, written in the early 1920s, entitled *Memoirs of Childhood and Youth*,<sup>108</sup> Schweitzer recalls how a Jew called Mausche,<sup>109</sup> who

<sup>99</sup> Of the 2,012 Jews recorded as living in Strasbourg in 1902, 1,052 were so-called *Altdeutsche*.

<sup>100</sup> See Caron, *Jews*, 110–17.

<sup>101</sup> On his background see Harris, *Devil's Island*, 42–45.

<sup>102</sup> See Caron, *Jews*, 132–35.

<sup>103</sup> Anti-Semitic feelings were, however, still a presence within Alsatian society.

<sup>104</sup> Caron quotes a passage from Michel Huisman in which it is stated that Strassburg University had up to that point (the quotation comes from 1898) been able to avoid the anti-Semitism of which in many German towns more than one scholar had been the victim (*Jews*, 143). For more on the liberal spirit of the university see John E. Craig, *Scholarship and Nation Building: The Universities of Strasbourg and Alsatian Society, 1870–1939* (Chicago: University of Chicago Press, 1984) 84.

<sup>105</sup> One of the most distinguished of these was the baptized Jew Georg Simmel, whose work was to influence Schweitzer in various ways.

<sup>106</sup> Caron cites a figure of 8.7% of the student population as being Jewish, though she notes that a high proportion of these were German Jews who had immigrated to Alsace (*Jews*, 173–75).

<sup>107</sup> The well-known historian Friedrich Meinecke, who was appointed to the university's faculty of history in 1901, comments on the strikingly large number of Jews on the staff, among whom he mentions Harry Bresslau, Schweitzer's father-in-law (on whom see below) and Hermann Bloch, describing the institution as "friendly to Jews" (*judenfreundlich*) (see Friedrich Meinecke, *Erlebtes, 1862–1919* [Stuttgart: Koehler, 1964] 166). For an assessment of Meinecke's view, see Stephan Roscher, *Die Kaiser-Wilhelms-Universität, Straßburg 1872–1902* (Tübingen: Lang, 2006) 186–89; Roscher seeks to correct, at least in part, Meinecke's impression.

<sup>108</sup> Albert Schweitzer, *Aus meiner Kindheit und Jugendzeit* (Munich: Beck, 1924; ET *Memoirs of Childhood and Youth* [trans. Kurt Bergel and Alice R. Bergel; Syracuse, N.Y.: Syracuse University Press, 1997]).

<sup>109</sup> It has been suggested to me that "Mausche" might be related to the German word *mauscheln*, which means to engage in shady wheeling and dealing, and so a kind of nickname carrying negative

dealt in cattle and land, used occasionally to pass through Günsbach, the village near Colmar, in which Schweitzer lived, with his donkey cart. Schweitzer notes that because no Jews lived in the village, this was an event for the boys each time it occurred, and they would run after Mausche and make fun of him, with some of the boys making their jackets look like pigs' ears and jumping up and down beside him. Schweitzer says that he joined in this general baiting, which evidently arose from Mausche's Jewish identity. Schweitzer then comments on how the boys would pursue him to the end of the village but that Mausche would bear all their teasing in silence, and then occasionally turn around and smile at the boys. Such benign stoicism, Schweitzer remarks, impressed him, and made him aware for the first time of what it meant to suffer silently in the face of persecution. "He [Mausche]," Schweitzer writes, "became an educator to me." He continues his account by stating that from then on he greeted Mausche in a kindly manner and that as a high school student he used to shake his hand and travel with him a little of the way. In spite of rumors that Mausche was a usurer and an unscrupulous real-estate shark, his example of forbearance continued to affect Schweitzer positively.<sup>110</sup>

This story is important not only because it indicates the existence in Schweitzer's childhood and beyond of the kind of anti-Semites not atypical of Alsace,<sup>111</sup> but also because of its apparently profound effect on Schweitzer's developing moral sensibilities. Schweitzer chooses, however, to describe these in general terms rather than as they specifically relate to his attitudes toward Jews. In the end the story is not about the Jewishness of Mausche, but about its importance for the moral development of Schweitzer and by extension the lesson that it carries.<sup>112</sup>

Schweitzer tells us that he was fascinated by politics,<sup>113</sup> and it is probably the case that he took a strong interest in the Dreyfus affair, which convulsed France at the end of the nineteenth century and led to huge conflict within French society and beyond. Interest, as we have noted, would have been greater in Alsace as Dreyfus was himself from that region, and Schweitzer mentions his own mother's strong interest in the affair and her pro-Dreyfusard views.<sup>114</sup> Of course, the matter transcended the issue of French attitudes toward Jews and took on a dimension of its own in which a cluster of political, religious, and other specifically French and national questions were raised. But the exposure to this controversy would have made Schweitzer more deeply aware of the existence of anti-Semitic forces in society. This point becomes more likely when we consider that during the period in which the scandal rumbled on (roughly from 1894 to 1906), Schweitzer was a frequent

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overtones. But such a view seems an over-interpretation—Mausche was a well-known form of the Jewish name Moses.

<sup>110</sup> Schweitzer, *Memoirs*, 13–14.

<sup>111</sup> For the typicality of the kind of prejudices expressed in this story, see Harris, *Devil's Island*, 44, with relevant bibliography.

<sup>112</sup> This is the case, though, with many of Schweitzer's anecdotes as they appear in this book.

<sup>113</sup> See Schweitzer, *Memoirs*, 44–45.

<sup>114</sup> See Schweitzer, *Out of My Life*, 22–23.



visitor to Paris through his involvement in the Paris Bach Society. Moreover, by 1908, it seems, he had become a friend of the French classical scholar, historian, and politician Théodore Reinach, who, together with his brothers, Salomon and the campaigning journalist Joseph—all of them liberal Jews—became among the most prominent advocates of Dreyfus.<sup>115</sup> It also seems that he and his wife Helene enjoyed a very close friendship with Théodore's wife, Fanny, who contributed a generous sum of money to Schweitzer as he attempted to gather funds before he set off to Lambaréné.<sup>116</sup> Moving in the society associated with the Reinachs, and in particular, Théodore, Schweitzer would have been at the center of liberal Jewish French support of Dreyfus, even if by the time he became acquainted with the latter, it was after the height of the controversy.<sup>117</sup>

<sup>115</sup> On Théodore Reinach and his brothers Salomon and Joseph, see Harris, *Devil's Island*, especially 161–63 and 187–93. Schweitzer first refers to having dinner with Théodore in Paris in a letter to his future wife, Helene, dated June 29, 1908. He notes that Reinach had invited him to dinner so that he could confirm that the man who wrote *The Quest of the Historical Jesus* also wrote the book on Bach (here referring to the shorter French edition, published in 1905: *J. S. Bach. Le musicien-poète* [with the collaboration of Hubert Gillot; Paris: Costallat, 1905]; Théodore had strong musicological interests and had sought to reform the synagogal chants of eastern Jews). It seems that Reinach, in his capacity as a deputy (he was one of the so-called *bloc des gauches* representatives from 1906–1914), helped smooth Schweitzer's attempts to go to Gabon as a German and not a French citizen, something that had become a sticking point between Schweitzer and members of the Paris Missionary Society, the organization in whose mission station Schweitzer had chosen to work.

<sup>116</sup> There are numerous references to meetings between Fanny and Schweitzer, and then Helene, in letters between the latter two, dating from 1910 (references found in Albert Schweitzer and Helene Bresslau, *Die Jahre vor Lambarene. Briefe 1902–1912* (ed. Rhena Schweitzer Miller and Gustav Woytt; Munich: Beck, 1992; ET *The Albert Schweitzer–Helene Bresslau Letters, 1902–1912* [ed. and trans. Antje Bultmann Lemke with the assistance of Nancy Stewart; The Albert Schweitzer Library; Syracuse: Syracuse University Press, 2003]). It seems that Schweitzer accompanied Fanny to concerts (May 5, 1911; November 18, 1911), played the organ to her (August 9, 1911), and even used her as a confidante with whom to discuss his relationship with Helene (August 23, 1911). For her support of the Lambaréné hospital see a letter dated November 18, 1911, promising a thousand francs a year, discussed by Mühlstein, *Helene Bresslau*, 139 (see also 133 and 142). The closeness of Schweitzer and his wife to Fanny is shown in their decision to give their only child, Rhena, Fanny's second name. On this see Oermann, *Schweitzer*, 183.

<sup>117</sup> While the Reinachs were liberal Jews who were strongly assimilated, they remained committed to the reform of Judaism and the study of its history. In 1884, Théodore wrote his *Histoire des Israélites, depuis l'époque de leur dispersion jusqu'à nos jours* (Paris: Hachette, 1884), in which he describes the role of the prophets in transforming Judaism from an animistic religion to one imbued with moral universalism. He goes on to trace a line of Jewish development running from the same prophets to Moses Maimonides and Moses Mendelssohn, seeing the emancipation of the Jews as marking a new point in their history. This emphasis on Jewish rationality over against the mystical and more obscurantist traditions of the Jews (for all of the above see Harris, *Devil's Island*, 191) is not totally dissimilar to Schweitzer's own understanding of the Christian tradition with its heavy emphasis on the prophets and later the Enlightenment, and it is difficult to imagine that Théodore and his younger Alsatian friend did not discuss their similar visions of religion, exchanging opinions about the history of their own traditions—the fact that Théodore had read or at least heard of Schweitzer's *Von Reimarus zu Wrede* (*Quest*) is evidence of some interest and would have provided ample topics for conversation. But if their conversations touched on the history of

Schweitzer's attendance of the University of Strassburg would have brought him into contact with Jews. While it is unclear that any Jews studied Protestant theology, Schweitzer was also a student of philosophy, where there is evidence of some Jewish students, though no Jewish lecturers, and he subsequently studied medicine in a faculty that had the largest number of Jews in the university, making up about 15% of the student cohort.<sup>118</sup> Of the effect of all of this on him, we can say nothing as Schweitzer at no point reflects on such contacts, either in published works or correspondence.

### *Albert Schweitzer and the Bresslau Family*

Without doubt, however, the most important Jewish association in Schweitzer's life was his wife, Helene Bresslau. Although Helene, along with her two brothers, was baptized as a Lutheran in 1886, both her mother and father were Jews who never converted. Her father, Harry Bresslau, was a distinguished historian of the medieval period,<sup>119</sup> who had spent much of his academic career in Berlin, and had only become a full Ordinarius (the top-ranking German professor) when he was appointed to this position in the department of history in Strasbourg in 1890, a sign of the more liberal attitude in that institution toward Jews. Bresslau had constantly been made aware, often in negative contexts, of his racial identity, and his advancement up the *cursus honorum* of German academia had been impeded on this account. When the historian Henrich von Treitschke, a former teacher of Bresslau, published his infamous essay, "Unsere Aussichten," in 1879, precipitating the so-called *Antisemitismusstreit*,<sup>120</sup> Bresslau had felt moved to respond in some detail and with a personal tone<sup>121</sup> to each of his former teacher's points, surprising even von Treitschke with the vehemence of his defense of Jews within the Reich.<sup>122</sup>

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Judaism beyond the second century, Schweitzer gives no evidence of this in his written work, never as far as I have discovered referring to Reinach's *Histoire*.

<sup>118</sup> Schweitzer mentions a conversation with a Jewish student in the medical faculty in Albert Schweitzer, *Die Weltanschauung der Ehrfurcht vor dem Leben. Kulturphilosophie III* (ed. Claus Günzler and Johann Zürcher; 2 vols.; Werke aus dem Nachlass; Munich: Beck, 1999–2000) 2:200.

<sup>119</sup> For a brief account of Bresslau's life see Mühlstein, *Helene Bresslau*; and Horst Fuhrmann, "Sind eben alles Menschen gewesen." *Gelehrtenleben im 19. und 20. Jahrhundert* (Munich: Beck, 1996) 104–8. Also note Bresslau's own account of his life in *Die Geschichtswissenschaft der Gegenwart in Selbstdarstellungen* (ed. Sigfried Steinberg; 2 vols.; Leipzig: Meiner, 1925–1926) 2:29–83.

<sup>120</sup> In this text, von Treitschke argues that German society was being invaded by eastern Jews, who, while quickly assimilating themselves and indeed becoming successful, were bringing about the ruin of German society through their materialist tendencies. Von Treitschke feared that after one thousand years of what he termed "German culture," a new period of German-Jewish mixed culture would follow with disastrous results. See Heinrich von Treitschke, "Unsere Aussichten," *Preußische Jahrbücher* 44 (1879) 559–76.

<sup>121</sup> At one point in his response to von Treitschke, Bresslau notes how shocked he was when for the first time, as a seven-year-old boy, he was mocked as a Jew on the streets by other children.

<sup>122</sup> For the relevant texts see Karsten Krieger, *Der "Berliner Antisemitismusstreit" 1879–1881. Eine Kontroverse um die Zugehörigkeit der deutschen Juden zur Nation. Eine kommentierte Quelledition im Auftrag des Zentrums für Antisemitismusforschung* (2 vols.; Munich: Saur, 2003).

Bresslau's decision to have his three children baptized had its roots in his own life story and what he understood to be the implications of the *Antisemitismusstreit*.<sup>123</sup> In the more liberal atmosphere of Strassburg University, and Alsace generally, Bresslau appeared to thrive,<sup>124</sup> and in 1905 he was appointed the first Jewish Rektor of a German university.

Schweitzer's first meeting with Helene is difficult to date, but it probably occurred around 1900, and was initiated through a circle of friends, mainly from immigrant German families, with whom Schweitzer socialized. What is clear from letters written between Schweitzer and Helene from 1902 to 1913<sup>125</sup> is that from then on Helene became Schweitzer's chief confidante as he attempted, often in a state of psychological confusion and difficulty, to decide on a course in his life that would properly conform with his strong moral yearnings. Helene was to accompany him on his first trip to Africa, after they had married, but only occasionally after that, owing to ill health.<sup>126</sup> Her devotion to Schweitzer's cause was manifested in a variety of ways and never in doubt, even if the long absences and Schweitzer's reliance on a string of devoted female helpers would cause considerable strain on their relationship.

Schweitzer's association with the Bresslau family over a long period must have made him more sensitive than many Gentiles to issues pertaining to anti-Semitic prejudice. In a letter to Helene dated April 10, 1905, and written in the wake of the news of Harry Bresslau's appointment as Rektor of the Kaiser-Wilhelm-Universität, Schweitzer states openly how much he feels for Helene's father after all his sufferings at the hands of "our race," implying a strong sense of the difficulties Bresslau had experienced as a Jew;<sup>127</sup> and one need not doubt that conversations between Schweitzer and Bresslau touched on the issue of anti-Jewish prejudice. In his correspondence with his wife, however, nothing is made of her Jewish origins, and even though Helene herself was employed by Schweitzer to read his New Testament and other publications from this period, there is no substantive discussion in any of the letters of Schweitzer's interpretation of Jesus as an eschatological prophet of Israel's redemption, or of Paul as someone who thought exclusively in

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Bresslau's text is found at 1:195–216, and is an "open letter" (Sendschreiben) to von Treitschke. For brief comments on this see Fuhrmann, *Gelehrtenleben*, 106–7.

<sup>123</sup> See Mühlstein, *Helene Bresslau*, 21 for the effect of this event, and German anti-Semitism more generally, on the family.

<sup>124</sup> See *ibid.*, 79, and literature cited there.

<sup>125</sup> Schweitzer and Bresslau, *Briefe*.

<sup>126</sup> She had contracted tuberculosis on their first trip to Africa and never recovered fully.

<sup>127</sup> See Schweitzer and Bresslau, *Briefe*, 88: "Your father has had to endure a great deal from people and has had to tolerate setbacks and injustices inflicted on him by our race" (Dein Vater hat viel von den Menschen zu leiden gehabt und Zurücksetzungen und Ungerechtigkeiten von unserer Rasse erdulden müssen). "Our race" (unsere Rasse) may refer to Gentiles or Germans (Jews in this period would often refer to themselves as a race).



Jewish categories. Judaism as a subject is absent, except in the one case mentioned above.<sup>128</sup>

In some senses this is unsurprising. As Verena Mühlstein, Helene's most recent biographer, has shown, every attempt was made by Harry Bresslau to assimilate his children to German culture with all that implied (their baptism was but one expression of that).<sup>129</sup> Neither parent was religious nor a practicing Jew in any form, though Helene's mother, Clara, came from a much more religious background than her father (Clara had a brother who had trained in Jewish theology); but she appears to have raised no objections to Harry's decision to have their three children baptized. Against such a background "it is in vain that one looks for a Jewish consciousness in Helene."<sup>130</sup> Insofar as the latter possessed a developed sense of religiosity it could best be described as liberal Protestant.<sup>131</sup>

### *Schweitzer and Nazism*

Of greater significance, given the background of his wife and the personal history of his father-in-law, is Schweitzer's reaction to the beginnings of Nazi rule and its consequences for Jews. Schweitzer was clearly aware of the potential horrors of National Socialism, as his speech to a gathering of Germans in Frankfurt in 1932

<sup>128</sup> In a letter dated January 26, 1908 (Schweitzer and Bresslau, *Briefe*, 198), Schweitzer recalls a conversation with Friedrich Curtius, the well-known Prussian official, who was the so-called Kreisdirektor of Strasbourg. In a discussion about rationalism, the latter had asserted that this was a strong feature of Schweitzer's intellectual make-up, claiming that it was one that he shared with the Jews: "For the foundation of the Jewish spirit consists in a simultaneously superficial and yet penetrating rationalism" (Denn die Grundlage des jüdischen Geistes besteht in einem zugleich oberflächlichen und tiefgehenden Rationalismus). Schweitzer goes on to note that he is aware of the presence of such rationalism in Helene and comments, "It is that which gives you peace, and me also" (Er ist es, der Ihnen diese Ruhe gibt, wie auch mir). While viewing this rationalism positively, Schweitzer fails to comment on the view that it is in some sense Jewish, though his reference to Helene in this context might be significant.

<sup>129</sup> In his own account of his life, which appeared in the series entitled *Die Geschichtswissenschaft der Gegenwart in Selbstdarstellungen* (for full bibliographic reference see n. 119 above), published in the year of his death, 1926, Bresslau never refers to his Jewish origins, not even to his role in the *Antisemitismusstreit*. This might be seen as a sign of his assimilationist tendencies and as a desire to exclude almost any sense of his Jewishness from his personal life. But it may have had more to do with a sense of hurt at his treatment and a reluctance to go over sad terrain. Bresslau, though assimilated, was keen to promote the cause of Jews in Germany, a fact not only seen in his participation in the *Antisemitismusstreit*, but also in his role in the founding of the short-lived journal *Zeitschrift für die Geschichte des Judentums in Deutschland*, his authorship of a number of articles on the history of the Jews in Germany, and his membership in the Historische Kommission der Geschichte des Judentums in Deutschland. Such activity was not, of course, incompatible with the development on Bresslau's part of a strongly patriotic spirit, and in the same autobiographical essay he records how he went around Alsace lecturing as a representative of the government, and his sadness at the return of Alsace to France at the end of the First World War. He was expelled from Strasbourg on December 1, 1918, as a "pan-Germanist militant."

<sup>130</sup> Mühlstein, *Helene Bresslau*, 22.

<sup>131</sup> Helene took her Protestantism seriously, and she and Schweitzer appear from their letters to have shared a genuine liberal Protestant piety.

on the occasion of the 100th anniversary of Goethe's death indicates. This does not refer directly to the disturbances of the day, but makes it plain that Germans were at a fateful hour, where the need to resist and preserve the moral spirit are presented as central planks in dealing with the impending future.<sup>132</sup> It was also during this time that Schweitzer attempted unsuccessfully to complete the writing of his own moral philosophy, in which, among other things, he adopted a strikingly more negative stance toward the philosophy of Friedrich Nietzsche, partially influenced, one might argue, by Nazi usage of the philosopher's work to bolster their own beliefs.<sup>133</sup> He was also moved to address in some detail the whole question of the rise of what he termed "neoprimitivism" (*Neoprimitivismus*), an offshoot of which he assumed Nazism to be.<sup>134</sup> In letters dating from the end of 1932, he begins to express his considerable despair at the prospect of Nazi rule in Germany.<sup>135</sup> Hitler's elevation

<sup>132</sup> See Oermann, *Schweitzer*, 213–14. In the speech Schweitzer refers to the political and social ferment of the time, noting that "spiritual existence is threatened by material existence" (mit der materiellen Existenz ist die geistige bedroht). He then continues: "So much of what might be done for culture and education can no longer be continued . . . so great is the distress and concern in which this day falls" (So vieles, was für Kultur und Bildung getan wurde, kann nicht mehr fortgesetzt werden . . . so gross sind die Not und die Sorge, in die dieser Tag fällt). He goes on to delineate, again in general terms, the way in which terrible material developments have influenced economic, social, and ethical life. A more detailed discussion of this speech is now found in Suermann, *Schweitzer als "homo politicus"*, 165–68, where the author gives a helpful description of the tense context in which the speech was delivered, noting that the police were on hand in case the room in which Schweitzer was talking was stormed by the SA. Suermann makes it clear that Schweitzer could not have been unaware of anti-Semitic disturbances before this date caused by the Nazis. Schweitzer had sensed the way Germany was drifting as early as 1930, as a letter where he inveighs against the weakness of German democracy indicates (quoted by Mühlstein, *Helene Bresslau*, 239).

<sup>133</sup> For especially negative comments about Nietzsche in these volumes, written between 1931 and 1945, see Schweitzer, *Kulturphilosophie III*, 1:332–41; 2:322–27 and 345; and the sentence: "With him European thought lost its soundness" (Bei ihm verliert das europäische Denken seine Gediegenheit; *ibid.*, 345). But, in spite of a growing sense of the difficulty of Nietzsche's views, Schweitzer is clear that the philosopher, whom he never explicitly associates with the Nazis, was not properly understood by those who were now intent upon using him. To assume that he provided some kind of template for society's organization was, according to Schweitzer, quite wrong—Nietzsche's genius lay in the questions he asked, not the answers he gave. But people now, Schweitzer notes, were making of him what he never was, precisely because he did not speak to them but rather to Schweitzer's own generation (see Schweitzer, *Kulturphilosophie III*, 1:437). Something of this critique is conveyed in the unglossed statement: "Not what Nietzsche and Kierkegaard thought and said but what one makes of it! Today's thought moves backwards to it." (Nicht was Nietzsche und Kierkegaard gedacht und gesagt haben sondern was man daraus macht! Das heutige Denken führt sich auf sie zurück [*Kulturphilosophie III*, 1:450].) For a helpful account of Schweitzer's changing views on Nietzsche, see Claus Günzler, *Albert Schweitzer. Einführung in sein Denken* (Munich: Beck, 1996) 46–54. While Günzler is clear that "the misuse of Nietzschean thought forced him [Schweitzer] finally to part company with Nietzsche" (die Mißbrauchbarkeit des Nietzscheschen Denkens nötigt ihn letztlich zur Absage an Nietzsche selbst), he is adamant that Nietzsche was central to Schweitzer's own ethical development, a point illustrated by the large number of references to the philosopher in Schweitzer's *Kulturphilosophie III*. Similar comments are found in Günzler's introduction to *Kulturphilosophie III*, 1:27, but he does not develop these at any length.

<sup>134</sup> See especially Schweitzer, *Kulturphilosophie III*, 2:298–330, 311–13, and 426–32.

<sup>135</sup> Letters quoted in Mühlstein, *Helene Bresslau*, 228. The letter Mühlstein quotes comes from

to chancellor in 1933 precipitated the relatively swift emigration of Helene's family (virtually all emigrated except her mother, who was too old and infirm to travel), and friends of Jewish origin that she and Schweitzer had made in pre-war Alsace. In such emigrations and in the fear expressed by their participants, Schweitzer was faced with the clear reality of Nazism's anti-Semitic character. While Schweitzer gives voice in a few places in his posthumously published third volume on cultural philosophy to the fact of mistreatment of the Jews, his observations are brief and undeveloped.<sup>136</sup> Never, however, did Schweitzer, a consistent opponent of nationalism,<sup>137</sup> make a public statement on the appalling events that were taking place in Germany, either as these related to the Jews specifically, or more generally, and this in spite of calls to him to speak out from a variety of quarters.<sup>138</sup> In 1933, for instance, the German mathematician Max Born, who, though a Lutheran, was classed a Jew under Nazi racial laws owing to his ancestry, pleaded with Schweitzer to return to Europe from Africa and call upon the world to rise up against the barbarism that was Nazism.<sup>139</sup> But Schweitzer replied that he thought the situation in Germany hopeless, and did not feel himself in a position to leave his patients in

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the middle of November 1932. Schweitzer's despair at the situation in Germany, deepened by a visit to Berlin, is captured in such words as the following: "Now I almost no longer have the strength to hope. Again and again I say to myself, Why write this? [that is, his third volume on cultural philosophy] . . . Before the new spirit can come, the peoples' madness will have destroyed everything." (Jetzt habe ich fast nicht mehr die Kraft zu hoffen. Immer sage ich mir, wozu dies schreiben . . . Ehe der neue Geist kommen kann, hat der Wahnsinn der Völker alles zerstört [ellipsis in source].)

<sup>136</sup> See *Kulturphilosophie III*, 2:200 and 219. In the latter passage, Schweitzer castigates the failure of a number of unnamed states to allow Jews, fleeing from persecution, to immigrate into their lands, so condemning them to horrendous suffering and destruction. Note also *ibid.*, 303–4 for Schweitzer's reference to the presence of state-sponsored torture but again without any reference to the authorities to whom he is referring.

<sup>137</sup> His opposition to nationalism is seen most clearly in Schweitzer, *Wir Epigonen*, 77–92, but is present throughout his work. For a discussion of this opposition see Suermann, *Schweitzer als "homo politicus"*, 119–31.

<sup>138</sup> It appears that Schweitzer was invited by Joseph Goebbels to Germany after 1933 to give concerts and lectures. Apparently Goebbels concluded his letter to Schweitzer in his customary way with the words "with German greeting" (mit deutschem Gruss). Schweitzer replied signing off "with central African Greeting" (mit zentralafrikanischem Gruss). The story is retold by Theodor Heuss in his paean to Schweitzer on the occasion of the presentation to the latter with the Friedenspreis des Deutschen Buchhandels in 1951. Heuss, then President of the Bundesrepublik and a friend of Schweitzer from their student days in Strasbourg, attributes the story to Werner Picht, one of Schweitzer's many biographers and a personal friend. The correspondence has, sadly, never been found. For a discussion of the matter see Oermann, *Schweitzer*, 219.

<sup>139</sup> See Mühlstein, *Helene Bresslau*, 231. The letter, dated July 2, 1933, is now quoted in Suermann, *Schweitzer als "homo politicus"*, 172. The plea is strong in its tone: "I would like to express my feeling that here in the middle of European 'civilization' a situation has developed that needs a man of your clout. You are a man to whom the world's conscience would listen! . . . I believe that here in this very moment a more important obligation awaits you than in Africa." (Ich möchte nur dem Gefühl Ausdruck geben, dass hier im Zentrum der europäischen 'Zivilisation' eine Lage entstanden ist, die ein [sic] Mann von Ihrem Schlage braucht. Sie sind ein Mann, auf den das Weltgewissen hört! . . . Ich glaube, dass im Augenblick hier Ihrer eine wichtigere Aufgabe wartet, als in Afrika [ellipses in source].)



Africa. Max Planck also wonders in a letter to Schweitzer, dated August 9, 1938, what kind of effect Schweitzer would have if he decided to make Europe his zone of operation, opining that it would bring no fewer blessings than the ones he brought to Lambaréné.<sup>140</sup> Schweitzer's own niece Carolina Bresslau also asked Schweitzer to give clear expression to his contempt for a Germany that hailed such a dictator as Hitler. But all of this was in vain: Schweitzer remained silent.<sup>141</sup>

There is, as far as I can see, nothing sinister about this silence. Schweitzer, as we have indicated, despised Nazism and all it stood for. He spoke against it in private, and after Hitler came to power he vowed never to set foot in the country until the latter had been deposed (in fact he only returned to Germany in 1948). He and his wife were assiduous in their attempts to persuade both their relatives and other Jews to leave Germany, and they helped a number of individuals resettle, often in the United States.<sup>142</sup> Moreover, it is difficult to discern any indication of an anti-Jewish streak in Schweitzer, a point supported by the fact of his warm relationship with the Bresslau family and also by his friendship with Martin Buber, to which I have already referred.

But while Schweitzer's failure to speak out publicly against the Nazis' anti-Semitism does not imply any sympathy for Nazism, or deeply held antipathy to Judaism, it seems strange and even regrettable. After all, Schweitzer's wife was, according to the Nuremberg Laws, Jewish, as was all her family. Her father, who luckily did not live to see the Nazis in power, had, as we have seen, spoken out against von Treitschke in the *Antisemitismusstreit* about fifty years previously, and one of the slogans of that dispute, itself coined by von Treitschke, namely "the Jews are our misfortune" (*die Juden sind unser Unglück*), was daubed on the walls of many German towns in the period following Hitler's coming to power. Schweitzer's stock was high in Germany and while technically he was a Frenchman

<sup>140</sup> "And yet I sometimes ask myself what sort of effect you would have if you wanted to make Europe your center of operations; certainly no fewer blessings would come forth than do in Lambaréné" (*Ich muss mich doch manchmal fragen, welche Art von Wirksamkeit Sie wohl entfalten würden, wenn Sie sich in Europa Ihr Arbeitsgebiet einrichten wollten; sicherlich würde daraus nicht weniger Segen entspringen als in Lambarene [Schweitzer, *Briefwechsel*, 611]). Note also the possibly conscience-pricking words of Planck in another letter to Schweitzer, dated September 29, 1938: "Sometimes I envy you your quiet life, lived out in peace and harmony, notwithstanding all your work. And yet each of us must fight as well as he can in the particular places that fate has assigned him." (*Manchmal beneide ich Sie um Ihr bei aller Arbeit doch geruhiges Leben in Frieden und Harmonie. Und doch muss jeder von uns auf seinem ihm vom Schicksal bestimmten Posten kämpfen so gut er kann [Schweitzer, *Briefwechsel*, 611].*)*

<sup>141</sup> Mühlstein, *Helene Bresslau*, 231.

<sup>142</sup> One instance of such help relates to Herbert Spiegelberg who, though a Christian, was deemed to be Jewish under the Nuremberg Laws. Spiegelberg, who had originally attended Schweitzer's confirmation classes in Strasbourg, informed Schweitzer in 1933 that because of his origins, he was unable to habilitate. Schweitzer wrote letters of recommendation for him to the U.S. where he was able to immigrate in 1938. See Schweitzer, *Briefwechsel*, 644–99 for the correspondence between the two, and for more evidence of his attempts to help Jews get out of Germany and be repatriated elsewhere, see Suermann, *Schweitzer als "homo politicus"*, 177–78.

at this time, he was held to be a product of German *Bildungskultur*. As such he had been the recipient of some of its most esteemed distinctions, not the least of which was membership in the Preußische Akademie through which he had met opponents of the regime like Planck and Born. The sense of him as a significant figure in that culture, and indeed in European culture more generally, was voiced by those two men, and no doubt by many others who asked him to speak out against the horrors of the criminal Nazi state. Schweitzer's claim in the face of such requests that the situation in Germany was lost, rendering action against the Nazis pointless, seems odd coming from the man who had a strongly developed but positive sense of the role of resignation in ethical action. Those who sought to improve the world, but despaired at the impossibility of the task, should, Schweitzer claimed, accept the necessity of resignation and simply act out their moral vision.<sup>143</sup> Schweitzer might have been resigned to the uselessness of his intervention in German public life in the mid-1930s and beyond, but, according to his own philosophical position, that should not have prevented him from speaking out. And was not the promulgator of the theory of "reverence for life," the absolute creed of non-violence, bound to say in public what he thought about the violent actions of the Nazis, actions that had directly affected the lives of members of his wife's family? Schweitzer's oversight here, which stands in stark contrast to his willingness, under pressure, to speak out against nuclear weapons in the 1950s as well as other phenomena, such as the forced emigration of German peoples from communist lands, is difficult to understand. Some have put it down to a desire to protect his friends in Germany at the time, who would, so the argument goes, have been endangered if he had spoken out publicly against the Nazis, but there is no evidence for such reasoning on the part of Schweitzer. Others have asserted that his silence should be recognized as a form of political protest, but this seems to be special pleading.<sup>144</sup> Perhaps it was based on a personal and political calculation: he felt that to express his thoughts on this matter would make him appear a less universal figure, for it would align him with a particular group of individuals; in other words such action could be seen as too political.<sup>145</sup> But one could respond that to speak out against Nazism would align him with universal values, and men like Planck, who had implored him to

<sup>143</sup> On the complex role of resignation in Schweitzer's thought see Ara Paul Barsam, *Reverence for Life: Albert Schweitzer's Great Contribution to Ethical Thought* (New York: Oxford University Press, 2008) 18–21. Schweitzer understands the concept positively, as a way of overcoming the apparently inevitable conflict of wills to live. Although Schweitzer never applies the concept politically, one can see how it might be applied in such a way, especially where political issues are so obviously ethical as they are in any consideration of the Holocaust.

<sup>144</sup> These views, associated, respectively, with Johann Zürcher, a follower of Schweitzer who had spent much of his life editing the latter's *Nachlass*, and with Erich Gräßer, another follower who has written at length about Schweitzer and similarly edited some of his *Nachlass*, are reported in Suermann, *Schweitzer als "homo politicus"*, 173, but without comment from the author.

<sup>145</sup> For a helpful discussion of Schweitzer as a *homo politicus*, see *ibid.* It is notable that Schweitzer never spoke out explicitly against the evils of Communism, in spite of the fact that he was aware of its appalling record on human rights (*ibid.*, 499).

intervene, had themselves taken a very different stance. Whatever the reason, it might well have seemed, at war's end, that his silence on this matter had been a miscalculation, not to say a moral shortcoming.

### *A Sense of Guilt?*

Such a view may find some support in an event that occurred later in Schweitzer's life. In 1963 Rolf Hochhuth published a play with the German title *Der Stellvertreter*,<sup>146</sup> translated into English as *The Deputy*.<sup>147</sup> Hochhuth's claim in the play is that Pius XII's apparent silence about the Holocaust makes him a culpable and tragic figure, and to this effect the play's central scene is a confrontation between the pope and a Catholic priest, Riccardo, who opposes his policy of studied neutrality. The play was an instant success and inspired a great deal of controversial comment. It seems that the publisher, Rohwolt Verlag, sent Schweitzer a copy of the play. Schweitzer, then, wrote back to them and his letter was to form the preface to the American edition of the work.<sup>148</sup> Why Schweitzer agreed to allow this letter to be published as a preface to the American edition is unclear but striking—as far as I know he wrote no other prefaces to books or plays, and tended not to want to associate himself with controversy of any sort for fear that it would detract from his own message of reverence for life, and it is clear that by the time his preface appeared, the play had been the subject of extended controversy.<sup>149</sup> While the preface is not long, its contents are intriguing. He begins by expressing his thanks to the Hamburg-based publishing firm for sending him the play. He notes that he was an active witness “of the failure which took place in those days, and I believe that *we* must concern ourselves with this great problem of the events of history” [italics mine]. He continues by stating that “we owe this to ourselves, for our failure made us all participants in the guilt of those days.” Schweitzer asserts that the failure was not just of the Catholic Church but of Protestants as well, who “became guilty by simply accepting the terrible, inhuman fact of the persecution of the Jews.” He repeats his view that the failure lies with philosophy and free thought. For Schweitzer the appearance of *Der Stellvertreter* is significant not only because it indicts a specific individual who placed on himself the great responsibility of silence, but also because it is a solemn warning to contemporary culture to forego any acceptance of inhumanity because it leaves us unconcerned. For Schweitzer

<sup>146</sup> Rolf Hochhuth, *Der Stellvertreter* (Reinbeck bei Hamburg: Rowohlt, 1963). My decision to discuss Hochhuth's work in connection with Schweitzer's silence about Nazi persecution of Jews was made independently of Suermann, who now has a similar discussion in *Schweitzer als "homo politicus"*, 173–75.

<sup>147</sup> For a discussion of the play and the controversy it ignited see Margaret E. Ward, *Rolf Hochhuth* (Twayne's World Author Series 463; Boston: Twayne, 1977) 25–47.

<sup>148</sup> Rolf Hochhuth, *The Deputy* (trans. Richard and Clara Winston; Baltimore: John Hopkins University Press, 1997).

<sup>149</sup> For a detailed and early account of the controversy stimulated by the play, see *The Storm over "The Deputy"* (ed. Eric Bentley; New York: Grove Press, 1964).



Hochhuth's drama is not only an indictment of history, but also a clarion call to our time, which, in his opinion, is dominated by a naïve inhumanity.

There are a number of reasons why Schweitzer might have felt moved first to write to Rohwolt Verlag, and then to allow his letter to be used as the preface to the American edition of a highly controversial play. One might lie in his conviction that the world, faced with nuclear destruction (against which Schweitzer spoke so vehemently), had chosen simply to ignore it rather than protest against it. But it is surely also plausible to argue that Schweitzer's enthusiasm for a play that attacked the culpable silence of the pope about the Holocaust gave expression to a personal sense of guilt at his own previous failure to speak out in public against the reality of the persecution and destruction of the Jews in Germany and beyond.<sup>150</sup>

## ■ Conclusion

This paper has sought to shed light on an important, but little-studied, aspect of Albert Schweitzer's life and work. It has fallen into two halves, one dealing with what Schweitzer says about Judaism in his written oeuvre, especially those works concerned with the New Testament, and the second dealing with his interaction with Jews and Judaism in his life. Whether the two halves complement each other or are mutually revealing, or both, will be discussed at the end of this conclusion.

Attention needs to be drawn to a number of points. First, Schweitzer, in his studies of Jesus and Paul, is at ease arguing for the view that the key to understanding them lies in interpreting them against an exclusively Jewish background, understood as an eschatological one.<sup>151</sup> While Schweitzer sees both of them as thinking originally within inherited categories, he never indulges in what might be termed a sustained negative critique of their Jewish heritage, or in a well-developed Christian theological rhetoric of supersessionism, especially common among his German theological peers, not least those from a liberal background.<sup>152</sup> True, on occasion Schweitzer

<sup>150</sup> Suermann supports the case I have made above, at least indirectly, by drawing attention to Schweitzer's correspondence with Pastor Martin Niemöller, now available in Schweitzer, *Briefwechsel*, 471–500 (see Suermann, *Schweitzer als "homo politicus"*, 175–77). In a letter dated July 24, 1960, and quoted by Suermann (*Schweitzer als "homo politicus"*, 177), Schweitzer castigates Niemöller, who, like Schweitzer, was a strong opponent of the nuclear arms race, for not opposing Nazism energetically enough, or at least restricting his objections only to Hitler's actions against the church. Elsewhere, in a celebratory volume on the occasion of Niemöller's 70th birthday, Schweitzer, by contrast, questions his criticism of Niemöller for being too ecclesio-centric in his attacks on Nazism—explicitly mentioning persecution of the Jews as an omission—by noting his own distance from those events in Africa and wondering whether he would have been as brave as Niemöller had been (see *Bis an das Ende der Erde. Ökumenische Beiträge zum 70. Geburtstag von Martin Niemöller* [ed. Hanfried Krüger; Munich: Beck, 1962] 26–28).

<sup>151</sup> Note the following comments from his "Selbstdarstellung": "Jesus and Paul can both be explained as having arisen out of Jewish thought" (Jesus und Paulus sind beide ganz aus jüdischen Gedanken zu erklären [Schweitzer, "Selbstdarstellung," 374]).

<sup>152</sup> A read through Gerdmar, *Theological Anti-Semitism*, with its detailed delineation of the different forms of supersessionism and the standard views about Judaism found in a range of 19<sup>th</sup>- and 20<sup>th</sup>-cent. Old and New Testament scholars, would make this clear; see especially 580. Interestingly,

betrays, albeit in a muted form, some typical prejudices about the Pharisees or the rabbis, or related matters; and it is also the case that Schweitzer sees Jesus and Paul in their different ways as thinking out Jewish eschatology to a point where it can drop away and reveal a message of lasting and universal value, but he does so while attempting to retain the importance of what is specifically Jewish, albeit in an inevitably complex way.

Consistent with this attitude is the fact that Schweitzer comments on occasion on the reluctance of his peers to take full account of Jesus's and Paul's Jewishness. But Schweitzer does not make the inability of his peers to come to terms with this fact as he would see it, or the related phenomenon of their harsh comments on Judaism, a separate theme of his own historiography of the study of Jesus or Paul. It is, of course, there in Schweitzer's observations about scholars' attempts to overcome, evade, or generally ignore Jesus's or Paul's eschatological message and actions. Such attempts, however, are rarely expressed as the overcoming of Jewishness per se, and more in terms of the positive, though ultimately distorting and failed attempt, of wanting to modernize Jesus and Paul.<sup>153</sup> Their opinions, for Schweitzer, result more from an interpretive error, from a hermeneutical need, than from a desire to de-judaize. In this context, it is striking, though perhaps not surprising, that Schweitzer fails to engage with the literature of those scholars associated with the *Wissenschaft des Judentums* movement, in whose work the issue of Christian anti-Judaism looms so large.

Related to some of the above is the fact that Schweitzer takes no real interest in the history of the development of Judaism after the time of Christian origins, and in spite of his remarks about the Jewishness of Jesus and Paul, is unconcerned with the question of Jewish-Christian relations, both as they developed in the ancient and later periods and in his own time, a point that emerges, for example, in his correspondence with Martin Buber. This latter point is especially significant as Schweitzer was interested in the study of comparative religions but never Judaism nor indeed Islam. In part this might be explained by Schweitzer's own derogatory, although not deeply informed, views about rabbinic Judaism, which he refers to at one point as "a sun-scorched plain."<sup>154</sup> Such a lack of interest may also lie in Schweitzer's belief that in terms of the paradigms into which he divided the religions of the world—monistic and dualistic, optimistic and pessimistic, ethical and nonethical—Judaism comes very close to Christianity. Related to this observation, there is a sense in some of his remarks about Judaism, not least when

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Schweitzer is not discussed by Gerdmar, though, as I have already suggested, he might have been considered in the same broadly positive light as Weiss and Gressmann.

<sup>153</sup> "What surprised and dismayed the theology of the last forty years was that, despite all forced and arbitrary interpretations, it could not keep Him [Jesus] in our time, but had to let Him go. He returned to His own time, not owing to the application of any historical ingenuity, but by the same inevitable necessity by which the liberated pendulum returns to its original position" (Schweitzer, *Quest* [2nd ET], 478–79).

<sup>154</sup> Schweitzer, *Paul and His Interpreters*, 49.

he writes about its manifestation as a *Kulturstaat*, that he sees its most significant characteristics, understood as ethical characteristics, as being transmitted through Christianity. If this is a form of supersessionism, it is mild, as Schweitzer nowhere passes negative judgment on the fact of the ongoing existence of Judaism, even if he takes little interest in it.

Schweitzer lived at a time when it was difficult to escape the presence of anti-Semitism. While a student and young man he was exposed to it, not least in the Dreyfus affair.<sup>155</sup> More particularly, his close friendship with, and subsequent marriage to, Helene Bresslau would have brought the fact of Jewish suffering even closer to home, as Helene's father, Harry, had been the victim of such prejudice, had written against it at a time of heightened anti-Semitic feeling in the German Empire, and had had his children baptized because of it.

Some might be tempted to argue that Schweitzer's less polemical account of Judaism is best explained by reference to this background, while others might note that precisely such a background makes his failure to engage with anti-Jewish sentiment in Christian theology more problematic. Interestingly, Schweitzer's marriage to Helene does not appear to have increased his sense of curiosity about Judaism or his familiarity with it. But this is probably best explained by the fact that Helene came from a highly assimilated background in which the religious practices of Judaism played no part and where, encouraged by a desire to assimilate, Jewish identity was not overtly emphasized. The fact of Helene's family's Jewishness loomed larger when the Nazis came to power in 1933, and most members decided to emigrate. While expressing his deep loathing of Nazism's racist tendencies, and seeking to account for the rise of what he regarded as a form of neoprimitivism in his cultural-philosophical works as well as helping both family members and others emigrate, Schweitzer chose not to speak out publicly on the subject, in spite of pleas for him to do so. It is difficult to believe that he did not come to see this as a moral oversight, a point that might be supported by his decision to allow his comments on Rolf Hochhuth's play, *Der Stellvertreter*, to form the preface to its American edition, and from other comments.<sup>156</sup>

Is there, then, a connection between Schweitzer's attitude to Judaism as expressed in his written works on the New Testament and elsewhere and his interaction with Jewish issues as these arose in his life? Some might argue that there is a strange disjunction between, for instance, Schweitzer's strong connection with a Jewish family and his failure to engage with Jewish culture beyond his interest in it as a means to understand the two major figures of the New Testament. I have sought, however, to account for this disjunction by arguing that the Bresslau family was

<sup>155</sup> Suermann quotes from an article in the *Berliner Tageblatt*, published to commemorate the thirtieth anniversary of the death of Émile Zola, Dreyfus's great defender, in which the anonymous author notes that the present times in Germany cry out for a new Zola. Suermann observes that Schweitzer could have been just that person, but he chose not to be (*Schweitzer als "homo politicus"*, 173).

<sup>156</sup> See n. 150 and his comments on this matter to Martin Niemöller.



highly assimilated and so uninterested, even positively opposed to, giving voice to their Jewishness. Others might argue, here more controversially, that there is in fact a problematic conjunction between his lack of interest in Judaism, beyond the New Testament, together with hints in his work at the idea of supersessionism, and his failure to speak out publicly against the Nazis and their anti-Jewish policies.<sup>157</sup> Against such a connection, we might note that Schweitzer experienced little difficulty in affirming Christianity's Jewish origins, and though he sought to show how the particularity of ancient Christianity was not an insurmountable obstacle to affirming its universal significance, he did this without engaging in extended polemic against Judaism. In fact his work appears strikingly free of anti-Jewish sentiment, or forms of supersessionism, when one considers the intellectual and social context out of which he emerged. Schweitzer, I would contend, did not have a problem with Judaism, at least not one to which he gave any expression. Moreover, we should be clear that Schweitzer's failure to speak out against Nazi oppression can be paralleled in his failure to protest against certain communist regimes—he wished not to be seen to be a partisan figure but one who somehow transcended the particularities of politics.<sup>158</sup> This does not, for obvious reasons, make his failure to speak out against the Nazis' anti-Semitic policies any less problematic, as Schweitzer seemingly came close to acknowledging. But it makes it less easy to argue that Schweitzer's apparent lack of interest in Judaism beyond the period of the New Testament and his mild supersessionism can be directly linked to his failure to criticize in public the Nazis and their anti-Semitic policies. Some may dispute such a conclusion and think that the evidence I have presented points in another direction. It is, I hope, one of the contributions of this article to have presented the evidence as far as is possible, however one understands its interpretation.

<sup>157</sup> For the relationship between exegesis and anti-Semitism, see Gerdmar, *Theological Anti-Semitism*, 593–609.

<sup>158</sup> In this context it is important to note that Schweitzer was not like some theologians and indeed many others, who spoke out against Nazi oppression more generally but failed to mention the Jewish persecution. He simply failed to speak out against Nazi oppression publicly at all. Again this should not be taken as an exculpatory observation, but one that may show that Schweitzer had no particular problem with Judaism. In this context reference should be made to n. 150 above and Schweitzer's criticism of the specific character of Niemöller's attack on the Nazis.

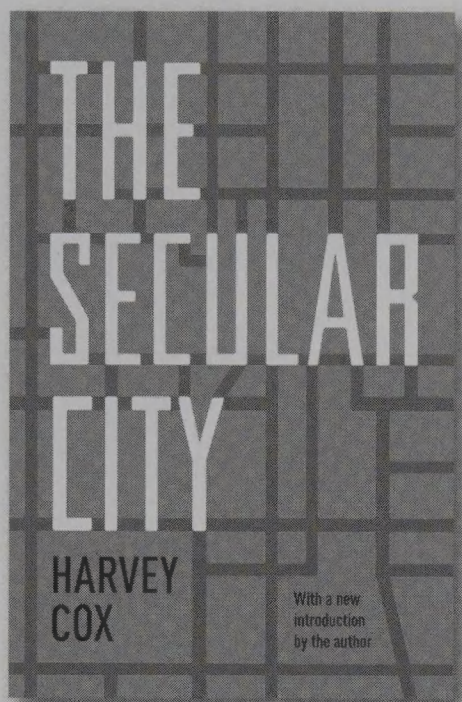
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